



POLICY AND SERVICES COMMITTEE TRANSCRIPT

Special Meeting
Wednesday, December 14, 2016

Chairperson DuBois called the meeting to order at 6:04 P.M. in the Community Meeting Room, 250 Hamilton Avenue, Palo Alto, California.

Present: DuBois (Chair), Kniss, Scharff

Absent: Berman

Oral Communications

None.

Agenda Items

[Video begins with the meeting in progress.]

2. Directions to Staff Concerning Further Requirements and Restrictions Related to Basement Construction and Dewatering

Phil Bobel, Assistant Director of Public Works: ...construction season in 2017 and then thirdly, we're going to make some recommendations essentially for 2018, hoping that we could get an ordinance provision in place by then but I have to say, right up front, it's going to be tight. We – it takes use a while to do ordinance revisions and we know that we need to do these ordinance revisions to have a fully functional program. The goal is to continue it as a pilot without an ordinance in 2017 and on a parallel track, start our ordinance process so that we can get it in place if at all possible as an ordinance requirements by construction season 2018; that's our goal. First, we'll drop back to 2015 when we started a more robust program of keeping track and publicising the locations of the residential groundwater pumping sights for basements and this – the red tear drops just show where they were. We had 14 of these residential sites in 2015. Oops. Then in 2016, we had more requirements and better reporting and had eight of these residential sites. The one furthest to the left here, is a commercial site and primarily, we're talking about the other eight tear drops to the right, which are the eight residential ones that we had and the grand total of all of these sites, in terms of the amount of water pumped was 140 million gallons in

TRANSCRIPT

2016. If you add it up, all the amounts, these sites typically went for about 10 weeks of pumping and if you add all the water up that all eight of the residential sites pumped, you would get 140 million gallons and that was in our Staff report. The public concerns – just to remind everybody, I think continue to be the same. First of all, the concern that we're failing to utilize valuable resource, the water. We're discharging it to the storm drains system. Second major public concern has been potential impacts on the ground water. Either the elevation or the amount of storage or the flow; potential impacts on our own emergency wells, which are at a much lower elevation. Nonetheless, there is a public concern about that. Third, impacts on neighboring properties. That is as you pump the ground water down possible, structures adjacent to the site are impacted. Potentially, cracking or other subsidence related problems. Then, fourth, impacts on trees and other vegetation, with the ground water being pumped down, that is the fourth concern and there's kind of permutations on those but I think it's fair to say those public concerns continue. Our current policy meaning what we implemented in 2016 was a new geotechnical investigation. There's a little bit of confusion on this because we've always required a Geotechnical Study, mostly to look into what the groundwater elevation was, whether or not the construction is going to run into ground water. In 2016, we increased those requirements so, that the applicant/owner/developer had to investigate what the drawdown was going to be at the site. How much groundwater reduction – ground water depth reduction we were going to get; had to estimate that. Another major requirement was that this be 10 weeks long only. That it be limited to 10 weeks of pumping. A third one, that no pumping after the construction period would be allowed. This has actually been in place for more like a decade. It's the so-called build it like a boat requirement that it be built in such a way that once the construction was over with, the water would be kept out of the basement and there would be no need for ongoing pumping going forward and that's been that way, like I say for approximately a decade. So, that's not new but it is sort of an essential feature of our current requirements. Next, that the dewatering period be only starting in October – excuse me – starting on April 1st, ending October 31st and that's a little different than the 10-week thing. It's long than 10 weeks if you really get started on April 1st, which we encourage and the reason for having this as a separate requirement is we don't want to overtax our storm drain system during the winter months when it's raining. In fact, when it's raining, we don't want flow to be in the – we want a minimum amount of flow that's sort of trying to compete with our ability to move the rainfall runoff along. The next one, fill station requirements. This is something that was originated here, by our very own Staff member Mike [En] and it basically, requires that there be a way that other folks can fill up trucks and connect up hoses for adjacent properties and use the water, rather than discharge – use as much water as possible rather than discharge

TRANSCRIPT

it to the storm drains system. So, this has been a growing requirement. Growing in the sense that it's imperfect, it's still imperfect and we've had to increase the requirements associated with this to make it function better in the last several years. Lastly, outreach and a better job can be don't on this also. A minimum is to have the contractor put out door hangers so that people know – first of all, know what's going on with this dewatering, what is this pipe that's going down their gutter and also, so that they know they can participate – they can use it, if their very close to the site. So, that's what we're up to in 2016. The enhancements that we're proposing for 2017 and again, these would be something that we do after Council – action by full Council but we could fairly rapidly, we would do them without an ordinance revision, it would be an enhancement of our current pilot program. We'd, again, we see some need for changes in our fill station requirement. The trucks can't fill up quite fast enough and that's what it's all about when you're a contractor trying to deliver water somewhere, you don't want to sit there and wait. Actually, the residents don't want us sitting there, waiting with a big truck and the engine on either. We have a little work to do there. A new requirement would be a minimum water depth so that we weren't pumping down more than three feet below the basement slab. We don't want to overdue that because then you use even more water than you would have to. So, that's a new feature that we're trying out on everybody, including the Committee tonight. The 10-week pumping time has actually, even though we were making our best estimate, never claimed that it would be perfect, that 10 week times has worked out pretty darn well and we're – at the request of the contractors that are really into this though, we've recognized that we need a two-week start-up period for them; for a whole lot of reason. The start of period is key. One near and dear to my heart, we want to make sure that the turbidity requirements – that we don't have a lot of mud coming into this system and they can do that better if they're allowed to experiment and change things around during a two week start up period. We're adding a two week start up period and retaining our 10-week basic pumping requirement for a total of 12-weeks. That comes from a really good, I thought – sort of stakeholder meeting we had a couple meets ago. Tree watering enhancement, we've always in the last year been trying to promote this and we'd have a specific requirement now that the contractor/developer would go to adjacent properties, specifically ask, would you like me to water the trees or other vegetation on your property? If so, tell me a few details about that and then they'd implement that. Better reporting, we see some weaknesses in what we'd required. Supplemental contract resources, this is really important. We've recognized that if we're really going to have an enhanced series of requirements which we are recommending, we need help. That our City Staff was never funded to do all of the tasks, all the reviews, the double checking in the field, that everybody is not expecting us to do, rather than hire additional Staff, which is not going

TRANSCRIPT

to be popular, we're suggesting contract dollars. Probably on the order of \$10,000 per site so, that we can hire a contractor possibly, add on to one of the existing contractors that the Development Center uses and have a person to really manage, run, verify, validate this program as we move forward. That's really going to be important. Lastly, Geotechnical Study changes, we've realized that this Geotechnical Study that we required in 2016 was far from perfect. It wasn't verifiable. In fact, data that we've gotten has not really supported the conclusions that were made in those studies, by and large. To make it – the essential feature to make it more verifiable is literally, to verify it with actual data, pump tests, ground water monitoring and those details are in our Staff report but we see that as a critical part of the requirements. So, that's 2017 and I think I'll just come back to this, if there's questions, this slide is just a few details on exactly how we'd upgrade that Geotechnical Study in 2017 and we're linking this back to all of those goals, remember. The Community concerns essentially become our goals; those four that I mentioned. We think if we're actually, going to make sure that those issues are addressed that the public has raised, we're going to need something like this. A key that I would point out is that fourth bullet. That if someone chooses to – they actually could choose to now but if they keep the pumping rate to 30 gallons per minute, which is basically like only 10 percent -20 percent of the current pumping rates. So, if they reduce the pumping rate by 80 percent -90 percent and can achieve that 30 gallon per minute rate, then they actually need not do these – this Geotechnical Study change. It's frankly, a way out of the Geotechnical Study. We'd prefer it. Nobody really wants a bunch of studies that we just have to evaluate. We'd rather have people either changing their construction method, to what we call advanced construction techniques or reinjection it or speculating it or using it, doing something besides just discharging it to our storm drain system. That's preferable but we don't think we can actually require, certainly without an ordinance change in 2017, these – what I'll call alternate ideas. So, they would be out there as options and if a contractor/developer was able to meet the 30 gallons per minute performance standard, using one of these things, then they would not need to this more in depth Geotechnical Study. We think that's an important incentive and we – it's sort of a cornerstone idea of this approach that we're suggesting. I'll let it go at that and we can come back to this Geotechnical Study if people want but really, it's the new important feature frankly, is other options – ways – alternate ways of operating. Then we'd be working in parallel on an ordinance revision so, that we could get it in place hopefully, for the 2018 construction season. Here are some of the things that we'd – in addition to all the other stuff – so to avoid repeating, it's not that we'd throw anything out from the 2017 requirements but these would be additional features. The first one is to utilize data from existing wells. We haven't instigated on that because it makes the contractor go out and sort of study

TRANSCRIPT

and find data that isn't always easy to find. There's a good argument that we really ought to be taking into account whatever information about the local area we have and it is out there. Next, that we limit the drawdown to three-feet. This is controversial one and it will require vetting and it would be part of the ordinance and the ordinance vetting process. That would mean that an adjacent property wouldn't be subject to a drawdown greater than three feet and that would be hard to achieve quite frankly. We see that that's sort of the bottom line performance standard if you're really trying to make sure that these adjacent properties aren't impacted. Analysis the impact of multiple sites. That means if there are three or four sites going on together and they're within maybe a 1000 feet of each other, maybe 500 feet of each other, some way of – again, that would have to be vetted through the ordinance process but the idea is, you shouldn't analysis these things in a vacuum. If there's some that are close together, they ought to be analysed together so that if they're impacting one another, which they probably are if they're a short distance, we'd pick that up. The fourth one is a really important one, it's come up numerous times that we consider some kind of fee and here we've listed it – we used the word discharge fee. We sort of think this is more doable than the type of fee the water district uses, which is really a ground water extraction fee but we haven't ruled that out either. So, some kind of a fee that's basically on a per gallon basis that would charge for the water pumped out or the water discharged to our storm drain system. That ladder would be the easier of the two for us to do. Then, the last one also important. I talked about how the – in FY '17, we make it clearer that an option is alternative construction techniques. The principle being, the general word use for this is a cut-off wall. Some kind of wall that goes down and blocks the ground water to a large extent, not completely, but to a large extent so, that it doesn't show up in the construction site and doesn't have to be pumped out. The general word for this is cut off wall. The difference between this and what we're suggesting for FY '17, notice that says requiring so, we actually require it and that's important. This isn't a cheap endeavor but it is more certain and we do have some people feeling, this is the way to go because it gives the developer/contractor a sort of certain outcome. They do this and they comply and it doesn't rely on studies and back and forth with us or a contractor. The new feature for 2018 would be actually making this a requirement. So, '17 become a good test year, sort of for us or pilot, I use that word. Meaning that people could do this, they wouldn't have to but hopefully we would gain some experience with it. That people would actually do it – a certain number of people would actually do it and we'd get experience because I have to emphasize on this one that as far as we know, nobody, anywhere has actually required this for residential basements. We haven't had any for residential basements so far in our area either. I don't need to tell you all the – so, this is a reason why we don't jump into a regulatory requirement. If we don't see that others Cities have

TRANSCRIPT

done it, if we don't have any experience with it ourselves, it's sort of very difficult for us to jump immediately to a regulatory requirement for something that hasn't been – I'll say demonstrated. Now, this is used all the time in commercial constructions but doing in right next to – in a, you know, R1 Zone, might be a whole different thing. We're not sure but it needs some more vetting. The other way to look at – the first Item, the fourth Item, and the fifth Item is that these three things were taken from what we called our Group Three ideas, the last time we were at Policy and Services and then full Council. You might – you'll recall that we had a list of things that were – need more vetting, need Staff to look into it. Our upper management and our attorney's office was very clear that we'd have to be directed – Staff would have to be directed by the full Council to look into these things. We did have the resources to fully explore them. We'd need first Policy and Services to recommend them to full Council and then we'd need full Council to direct Staff to explore these things. Just to emphasise them again, that's number one, four, and five that we're listed as Group Three activities, meaning the full Council need to direct Staff to first look into them, come up with something, bring it back for adoption through the ordinance process. Tonight, the Committee would make recommendations to full Council and then either late January or early February hopefully, we'd bring those recommendations from the Committee back to full Council and that's all I have.

Chair DuBois: Alright, thank you, Phil. Do we want to ask questions or do we want to go to the public?

Vice Mayor Scharff: Why don't we just go straight to the public?

Chair DuBois: Ok.

Council Member Kniss: I do want to ask just one question. You said Phil, that this has not been done in any other City? Did I hear you correctly?

Mr. Bobel: Well, that's what we think. We've not – again, in the -- I have to say that – come back to this – that we haven't fully explored all of these Groups Three thing. We're not aware of any other City that's required – we are aware that there are some other Cities that have the build it like a boat requirement, right? Not too many, actually, but there are other places that have the build it like a boat requirement. The enhanced Geotechnical Study, a requirement that a cutoff wall be used in residential, that's the principle thing I was referring to. The cutoff wall for residential, we're not aware of anybody that's required that. Again, we haven't explored this fully. We may

TRANSCRIPT

trip across someone if Council directs us to look into it. That certainly one of the first things we'd do.

Council Member Kniss: But there's no question it's – it or something like is done commercially?

Mr. Bobel: Correct.

Council Member Kniss: And it could be done in a variety of different ways, correct?

Mr. Bobel: Correct. Not a huge number of different ways but there are...

Council Member Kniss: So, I hope we'll get into this later. I would think that that would be something you would look at very carefully because that looks as though it would waste absolutely, the least amount of water.

Mr. Bobel: Definitely, that's sort of a cornerstone of the 18 requirements that we'd look into.

Council Member Kniss: Well, we're always saying we're a leader.

Chair DuBois: I suspect we're going to hear more about that from the public and then we can come back to it.

Council Member Kniss: Well, but I felt that was important for us to know that is something that has been seriously considered.

Chair DuBois: Yep. So, first of all, I want to thank everybody for coming out tonight. Appreciate you being here to talk about this. We do have 25 speaker cards. You know, at this point you want to speak, you should get your card in because we won't be excepting anymore and because we have 25 people, you have two minutes each and when I call out your name, if you could go to the microphone and it's the person who is on deck could go over there as well that would be great. So, our first speaker is Amy Adams, followed by Beatrix Cashmore. Is Amy Adams here?

Amy Adams: Good evening, my name is Amy Adams, I live on Colton Street. I wonder if any of you have heard of the Aquifer Guarani. As it turns out, it's the largest freshwater aquifer in the world and it happens to lie on 300,000 acres in Paraguay.

Ms. Molly Stump: Can we just wait till Liz gets back? So, she can hear what...

TRANSCRIPT

Ms. Adams: Oh, I didn't know that she left?

Chair DuBois: She'll be back.

Vice Mayor Scharff: She'll be back. (Inaudible).

Ms. Stump: I think it's important that (Inaudible) hear everything. I mean, I don't know, I'm just saying (Inaudible).

Chair DuBois: She's coming back now. I think you can go ahead.

Ms. Adams: Ok. Can my time be started again?

Chair DuBois: Yes, go ahead. You have 10 seconds left. I'm just kidding.

Ms. Adams: So, the Aquifer Guarani is on 300,000 acres in Paraguay near Bolivia and as it turns out, it was purchased by George Bush in 2005. Is there something that the Bush family knows that's critical in respect to water? I think there is. Water is a critical resource and right now, at least in our County, we consider it a right but eventually it will likely become a purchased commodity, hence their investment. We know that fresh water is only about two percent of our planet's water and only a small amount of that is accessible. Credit Suisse researched in 2008 that 2/3 of the population of the world will be in water stress conditions by 2025. So, conversation and environmental issues are critical for our local Community. Particularly, because I don't feel that there's going to be a federal priority in the next four years and so, we need to make it a local one and do all that we can to conserve and use water wisely. I feel that dewatering basements while not as bad, is analogous to fracking. You're taking fresh, good water that can be used by our Community and you're dumping it away. I also would like to comment that Palo Alto has a goal document for zero waste. I don't know that there's any real documentation in that document regarding water and I feel like this is a bigger issue that I think should be addressed by this Committee as well as the Council. We need to incentivize pervious surfaces, we need to decrease dewatering. If you have these fill stations and you don't sufficient, you know, supply to fill things and take the water away, there are private companies that have partnered and taken some of the water from the treatment plant to go out and irrigate. My one comment about fees is that Bruce Willis filled in a wetland in Idaho and then he just paid a fine. So, rich people will pay to do something if they want to but they're still going to lose your water.

TRANSCRIPT

Chair DuBois: Alright, thank you. Beatrix Cashmore followed by David Schrom. Is there a Beatrix? Alright. Oh, is she coming? Thank you. David if you could ready. Sorry, David Schrom is next. (Crosstalk).

Beatrix Cashmore: Good evening. Can you hear me? Ok. In support of the proposed new regulations on groundwater pumping, I urge Policy and Services to give your attention... (Crosstalk) I'm sorry? Go to the mic? Ok. I urge to give your attention to a planned construction of three new homes plus full basements at number 1900 N. California Ave. scheduled to break ground in May of next year. This would excavate simultaneously at sites within 100 feet of one another. There has been no environmental impact report done for this subdivision. Yet, Palo Alto has a history of subsidence. I've consulted my home owner's insurance agent and was assured that no insurance company covers ground movement damage to foundations, including earthquake insurers. That makes this project a grant experiment with the neighboring property owners being at the greatest risk of subsidence. We immediate neighbors feel that surveys need to be done for all adjacent properties to mark land elevations especially, close to the adjacent buildings. Constructions using conventional wide area dewatering methods would likely result in pumping 60-90 million gallons of ground water for these three properties? Additionally, we are located in a part of Palo Alto that is about one mile from the Bay. We are at elevation eight feet and ground water can be found at seven feet below ground level. For this reason, we feel that we are at particular risk for excessive dewatering and subsidence. We urge the use of an alternative to groundwater pumping, the use to cut off wall technology, to greatly reduce the extraction of water and thereby removing the possible negative consequences of that dewatering, including the notion that wasting our ground water resource is in any way an acceptable practice. Delaying the implementation of new dewatering regulations to 2018 would potentially result in significant harm now, next year. We need protective... (Crosstalk).

Chair DuBois: K, thank you,

Ms. Cashmore: ...monitoring and we need regulation by the City. Thank you.

Chair DuBois: Thank you. If we could, please hold your applause. We try not to either boo or applaud so that everybody will speak. David Schrom...

David Schrom: David Schrom is here.

Chair DuBois: Followed by Catherine Autery.

TRANSCRIPT

Mr. Schrom: I live on Oxford Avenue. The reason I'm here tonight is because when I contemplated taking enough water to supply me for the next 15,000 years and pouring it into the Bay. Water that's of quality high enough, it can be used for drinking, I felt as though we joined the Republicans and taking leave of our senses. I mean there's something inherently so stupid about that, that thinking about having it happen in a Community like Palo Alto, it's just – I wonder why I came here 45 years ago? I understand that when you buy a piece of property in Palo Alto, you make a huge investment and you often do so speculatively, thinking oh, I'll tear this one down and build a bigger one, full realizing the value of the land etc. You know, sometimes you just need to change the rules and what's with a rule that says, if you need pump groundwater into the Bay, you don't get a basement? Then, let the people who want to build find a solution. The idea that our tax dollars are being expended on having these guys find a solution is repugnant to me. The people who are creating this problem, the people who will profit by the construction when their homes become more valuable because they're larger. Those people can solve the problem. That's what a free market is about and that's what a democracy is about. We take responsibility for our behaviors. We treat our neighbors decently. We bear the burden – the full burden of the cost that comes along with the benefits we reap and we create a Community worth living in. What happens under the ground when this pumping takes place is extremely difficult to ascertain? Just recently the APA came forward and finally acknowledged that fracking was destroying people's groundwater as a resource for probable water and who know what we'll discover in days, weeks, months or years down the road if we let this process go forward before we fully understand its consequences. Thank you.

Chair DuBois: Thanks. So, Catherine Autery to be followed by Keith Bennett

Catherine Autery: Hello, my name is Catherine Autery and I am a 3rd grader at Roosevelt Elementary in San Leandro and I made a project about dewatering. [Video] A Save Palo Alto Groundwater Project. We're in the middle of a three-year long drought but we still pump water out of the ground and dump it into the Bay. That's crazy. Why would we waste water this way? Because of dewatering. What is dewatering? Dewatering is a fancy word used to describe the removal of water from an aquifer. Dewatering is happening in Palo Alto for the purpose of building basements. The aquifer is pumped so the ground water is low enough to build the basement. Fast fact: 140 million gallons of water were pumped in 2016 for eight residential basements. 140 million gallons of water, is enough water to irrigate 5,000 homes in Palo Alto for one year. What are our reasons to oppose dewatering? Water, especially from an aquifer is a precious and shared resource. What is an aquifer? An aquifer is an underground geological

TRANSCRIPT

formation that can store and transmit water. Fast fact: Some people think that an aquifer is an underground river but it is actually more like a big sponge. What can we do to save this precious resource? We could figure out a better way to build basements. Palo Alto is full of smart people. I'm sure you can figure out something.

Mr. Bobel: Can you help us with our next presentation?

Council Member Kniss: Can I ask, (Inaudible) did (Inaudible) her own?

Female: She made it all by – like she did the whole thing, yeah. (Inaudible).

Council Member Kniss: Wow.

Chair DuBois: Very nice. That was great, thank you very much. We have five speakers who have given their time to Keith Bennett who's going to speak for 10 minutes and that's going to be followed by Dan Garber, who also has five speakers contributing to another 10 minutes.

Keith Bennett (Speaking for Five): No. I'm not so fancy. Unfortunately, that's a very – fortunate or unfortunate for me, that's a very hard act to follow. This turns it on? I think sit down. Can people hear me? To the extent possible? This is a review of the issues related to dewatering for underground construction for Palo Alto. As people know, I've been working with – some people may know, I've been working with Dan Garber who will speak after me and talk about solutions to the problem – solutions from a construction perspective to the issues that I'm going to bring up. We are bringing here, not only the problem, which we've done but also the solution. Dan and I started out, about a year ago, on the opposite sides at City Council meeting and then we've started a discussion from there. The first thing I want to make clear is Save Palo Alto Ground Water doesn't hate basements. Our concerns are really related to the interaction of below grade structures, which include basements with groundwater and the associated impact on resources, public saving and infrastructure. The issue is coming up with, as she said, smart people in Palo Alto coming up with practical ways to build basements and they exist. Dewatering, people say it's a complicated problem, it's not. It's a simple problem, the simple issue is wasting and dumping all this ground water. If you don't extract all the water in the first place and take it out of the area, all the other problems get solved without a bunch of complicated rigamarole. One thing is that people say, well ground water is the responsibility of the Santa Clara Valley Water District however, the Santa Clara Valley Water District is prohibited from charging for construction dewatering per their district act. So, that means you can just active the State legislator to disdain that. If you talk to the SCVD people –

TRANSCRIPT

the water issue people they say, it's the responsibility of the local land use agencies a.k.a Palo Alto to manage this ground water through our construction practices and regulations. Our request, meaning Save Palo Alto Ground Water including Dan are – we have two requests the Policy and Services Committee. One is about a year and three months ago, Phil Bobel said, well if you want Staff to do something; it's going to need the Council to give us clear direction. We're asking you, people here to give clear direction to the Council as to what Staff should do and we want effective regulations that minimize the waste of groundwater for all projects that are commenced in 2018 and beyond and we want improvements to the current program that make meaningful reductions in the amount of ground water pumped in 2017 and while obtaining accurate data to guild regulations for 2018 and onward. So, we want two things in 2017, we want progress from things that we learned and we won't have a solid basis so that in 2018, you have a policy that people can live with and works. The shallow aquifer is a resource and these two things here are from the Santa Clara Valley Ground Water Management Plan 2016, which was just adopted and the two things I want to highlight. The Shallow aquifer, although not typically used for beneficial purposes is also a potential future source for drinking water or other beneficial use. In fact, it can be beneficially used today in practice for irrigation. Maybe not legally but practically and secondly, flows in the shallow aquifer help prevent salt water intrusion. Palo Alto had salt water intrusion, into the shallow aquifer, into the 1990s. It's been pushed out through better groundwater management however, significant increases in ground water pumping or sea level rise due to climate change, could lead to renewed salt water intrusion. This is a picture from the Santa Clara Valley Water District annual ground water report 2015. It's a cross sections – a schematic cross sections of the aquifers. It looks rather similar in Palo Alto, if you looked at the detailed cross sections. The point is, the shallow and the deep are clearly closely connected and in fact, the Santa Clara Valley Water District simply defines the deep aquifer as a depth. It's not based on absolute geological reality. Now, we have a good friend in Palo Alto, his name is Zero Zak and I talked with him last night and he said that using 140 million gallons of wasted ground water for irrigation instead of using Hetch Hetchy water, would be a much better idea if we're going to have that much water to spare. 140 million gallons is significant on the scale of the water conservations of portable water that Palo Alto achieved between 2013-2015. That's the graph on the left, it's by months. The units are 100 of cubic feet monthly and you can see that during the summer month, the amount of water dumped for groundwater – for dewatering is about 20 percent of the amount of water that we saved. Palo Alto saved 40 percent of its water between 2015 and 2013. As you've already heard, this is enough water to irrigate 5,000 average lots in Palo Alto for one full year and that's information from [Karla Dailey]. This water has value. If the Santa Clara

TRANSCRIPT

Valley were to charge for it at their rates, the amount of water pumped for one basement is about \$57,000 on average. I've made an allocation of the value of storm drain use, it's about \$46,000, you can argue with the details of the allocations but it's going to be roughly that amount of money. That's \$104,000 of public goods used per basement, there for I don't think it is unreasonable to people who are building these basements to pay more so that they don't use public resources. This is a graph of the major sources of storm drain loads and fees. The storm drains fill updated one of these numbers, I just didn't get it in here but there are about 1.5 billion gallons of water into the storm drain per year, that comes primarily from five sources. The ones in green are impervious surfaces for which this City assess a storm draining fee, which is coming up for a ballot measure this coming year. For that ballot measure, 6.9 million dollars and it's about 42,000 equivalent residential units. Groundwater is a significant part of the load on our storm drains. It primarily comes from two sources. The largest one is residential dewatering, which is about 38 percent of the total about of water per year that comes from all our one residences in a normal rain year. It is not small. The other one is Oregon Expressway Underpass, that has a couple of services that it provides and paved City streets. The two on the far right, I consider public goods. The one in red in the middle, I consider public good which is not paying. Now, Geotechnical Reports, what are the problems with Geotechnical Reports as a policy? These all quotes that I took out of the exist – the Geotechnical Reports that were done this year. It says, the project (Inaudible) will do blah, blah, blah, really? Is that documentation available? Did that really happen and does the City want to police that happening? Then, since – are you really convinced that these reports are going to protect properties? Since there are no consolidation tests in the soil report, we cannot predict settlement. We recommend that Romig Engineers, over there evaluate settlement of adjacent structures caused by dewatering. Are these reports accurate and trustworthy? This is the projected calculation; the average flow per minute was projected to be less than 20 gallons per minute. Fortunately, the City measured this year. The actual flow was 100 gallons per minute, that's five times the estimated flow. If I was off by a factor of five in my budget analysis, I would get certainly in trouble. Is the risk of wide area dewatering and i.e. not using a cut off, only on adjacent properties? Now, this same report at the bottom said, the maximum water luring is eight feet of the excavation and less than three feet at a distance of 20 feet. They made the mistake of writing this report in an area where we could actual measure what happened. We measured at a location 220 feet, that's 11 times further than 20 feet and we noticed that the water went down three feet. On another project, not here, we measured at a distance of 45 feet, the water level went down six feet. If there was another house on the other side dewatering, it would have gone down more. So, I don't think the City's 2017 program and certainly not the 2018

TRANSCRIPT

program should be built on Geotechnical Reports that disclaim all responsibility are inaccurate by factors of five or 10 and are expensive with limited utilities. I want to make one important disclaimer here, that detailed, well thought out project specific dewater and operation plans do have value and I think some of the data collected that's proposed does have value but I don't think people should think that this 2017 program as it stands now, unless it's specifically enhanced, is going to protect – is going to make significant progress. So, the take home message is our aquifer is a precious shared resource which Palo Alto has the responsibility to protect. A significant amount of Community ground water is pumped and dumped. This is neither acceptable to the Community nor sustainable. The storm drain usage is material and all users should pay their fair share and the enhanced 2016 technical reports were from a practical point of view, I think, a waste of money except to show our limitations. I'm happy to take questions.

Chair DuBois: Thank you. (Inaudible) We have Dan Garber speaking next followed by Rita Vrhel.

Dan Garber (Speaking for Five): I'm Dan Garber. A year ago, I spoke to this Committee to counter to what I expected was going to be another appeal to reduce our Communities homeowner's ability to involve their property. What I did not expect to find was there a friend. After the meeting, a leader of the group that was speaking on the problems of basement construction and groundwater conservation approached me, having recognized that our interests were likely greater than our differences and asked if I would be interested in talking to him about that. I have been the minority voice on many issues in this Community over the years and occasionally but with some regularity vilified for that voice. This is one of the only times that someone with a different opinion than mine has publicly gone out of their way to find common ground rather than remain intractably unwilling to doubt their own way of thing about things. For that tolerance and willingness to engage, which are characteristics that are, unfortunately, rare to find in Palo Alto, I am indebted to Keith Bennett of Save Palo Alto Ground Water and will work hard to support their interests. I'm an architect and although my profession helps me understand how I can support the better conservation of our ground water is peripheral why I am here. Tonight, I am a citizen and homeowner in Palo Alto and believe that if we can improve our properties in ways that conserved our limited resources, natural and otherwise, we should; that simple. Basement are important to Palo Alto, homeowners. They do not impact privacy, have no impact on the size and mass of our houses that would another wise affect the character of our neighborhoods and they can be built without having to deplete out aquifers of hundreds of millions of gallons of water. The ways of doing this are well known, practice wildly and not new. The reason that they have not been

TRANSCRIPT

regularly in the residential construction marketplace is because the residential requirements are typically less constraining than those in the commercial marketplace and yes, they have typically, but not always cost more than the broad area dewatering in the town of Palo Alto today. Our analysis suggests the cost of creating basements in this way may add 10-20 percent to the cost of doing a project using broad area dewatering strategies in most cases. Most of Palo Alto's neighborhoods are nowhere near the aquifer, however, several of our neighborhoods are in areas where the aquifers are close enough to the surface that a basement will impact it. Today, nearly all the basement excavations that are done in Palo Alto and need to be dewatered, use broad area dewatering strategies. Broad area dewatering is basically drilling wells into the ground to suck the water up in the soil out, allowing the soil to be excavated safely. As reported, because of the varied and unique soils in Palo Alto, this strategy results in the surfacing of millions of gallons of water that results in an impact that Keith has articulated. The alternative to this broad area dewatering is localized dewatering using cut-off walls. Cut off walls separate the area of the basement from the soil and water around it so that the only water that needs to be pumped out is the water inside the cutoff wall. We anticipate that the amount of water that would have to be pumped out of a project using localized dewatering method is at least 10 percent of the water that would have to be pumped out using broad area dewatering strategies. In fact, we suspect that there's a likelihood that in many projects – that many of the projects would not have to pump any water off the site into the storm – City storm water system at all. In the Commercial world, cut off walls are often constructed by vibrating steel plates a.k.a sheet piles into the ground. Taking large pieces of steel into our neighborhoods and vibrations is obviously a non-starter for us. Fortunately, cut off walls take many forms. The only criteria are separating the water outside from the water inside. The most likely method to create a cut wall is drilling perimeter holes around the area of the basement and filling the holes with concrete. This is called a secant wall. This has the benefit of becoming the (Inaudible) wall the basement potentially, shortening the construction duration of the project. About 15 years ago, my firm did a project in Palo Alto that used a cut-off wall to construct a full basement. In that case, we created the cutoff wall by impregnating the ground with an expansive clay that stopped nearly all the water from entering the work area. What water did seep in was pumped out of the excavated area, into the yard and percolate back into the ground. No water was pumped off site into the City storm water drain system. So, this is our recommendation, discourage localized dewatering over broad area dewatering by creating policy and regulation to incent the homeowner to pressure these strategies. Do that and all the other issues related to dewatering, quickly dry up. Our recommendations are further detailed in the documents that have been distributed to you. The ground water

TRANSCRIPT

conservation policy framework; this places the basement construction of dewatering within the larger context of conserving our Communities ground water resources. The second document, comments regarding the Staff report is our evaluation of this report and its effectiveness in addressing these topics. Three, the 2017 – in 2018 program recommendation which outlines our recommendation of how the City's construction and dewatering program should be organized in 2017 and '18. I wasn't planning to go through those documents. Our recommendations are actually six pages long but let me emphasize that the primary point that we are recommending is that two paths be created. One is the broad area dewatering strategy, the second of which is the localized watering strategy and that we find ways to make – to give the homeowner the incentive to pursue the localized dewatering strategies. It makes sense that 2017 is a tryout year however, we think the City can take action in this coming year to encourage the homeowner to use cut-off walls in this year. To answer Council Women Kniss question, I'm not aware of other City's requiring cut off walls but they have been used before. I will also point out another couple quick topics. Much of our recommendations have come from discussion that I've had with local contractors and subcontractors that actually do this drilling and the cost for the enhanced Geotechnical proposed reports that I have quoted in there, which are an additional burden of \$30,000- \$50,000 on the owner to create those reports, come from two proposals that I've had from geotechnical engineers for actual projects. I agree with Keith, that those reports – I don't think will be useful because of the conditional language that's used in them, such that they can be used managing or control documents for actual project work. I'm happy to talk more about the specific recommendations if you want but that's the overview.

Chair DuBois: Liz?

Council Member Kniss: If you were to balance that cost that you just talked about – let me try yelling. If we were to balance the cost of what you have suggested doing versus the studies that are required currently, would you balance that about equally or?

Mr. Garber: Yes. Potentially, those studies may actually cost more than the solution depending on what the actual soil conditions are but there is a trade-off there. When we looked – when I have actually gone out and priced these different cut wall versus the standard broad area dewatering, the difference is --again, depending on the actual condition, can be as much as \$60,000, they can be as little as \$15,000 and adding the additional burden of that study, it does not make sense to me from both a monetary standpoint as well as from the City's standpoint in terms of having a document that actually controls work that can be monitored and measured.

TRANSCRIPT

Council Member Kniss: So, because you have mentioned the commercial uses, essentially a sheet of metal and its noise to put in, which I have read about as well. Would you guess that the tube method, is that the correct word?

Mr. Garber: The method that I described is called a Secant wall and that's where you drill holes into the ground and fill the holes with concrete.

Council Member Kniss: As far as you know, you haven't done anything like this or read about it being done somewhere else?

Mr. Garber: We have not used that technique in Palo Alto. We personally have not. It has been done regularly. In fact, much of this new Stanford Campus work is done using that technique, today.

Council Member Kniss: Ok, we have something close by that we can compare this to, correct?

Mr. Garber: We can walk over and take a look at it.

Council Member Kniss: Thank you.

Chair DuBois: Dan, one last question, how common would it be for a contractor to know how to do that?

Mr. Garber: The question was, how common is it for contractors to know how to use these cutoff walls techniques. The answer is that there are three or four drilling companies in the Bay area. They all know how to use these techniques. One, in particular, American Drilling actually has equipment that is small in size and so it is more easily used frankly, on the residential sized properties which are smaller. General building contractors, you know, in and of themselves are probably unfamiliar with the technique, however, the subcontractors are very familiar with it.

Chair DuBois: Ok, our next speaker is Rita Vrhel to be followed by Mary [Silverster].

Rita Vrhel: I've been coming before the City Council for quite a while speaking about dewatering and I'm not going to do the usual 38 million gallons for one residential basement but what I'm going to say is that we seem to have a real dichotomy in Palo Alto regarding water. We ask our residents to save Hetch Hetchy water by putting in low drip irrigation, by putting in low flush toilets, gray water systems, etc. We offer rebates for

TRANSCRIPT

these and yet, our ground water is not valued at all and as we have seen and read, many Cities in California are now treating sewer water to use for portable water. Our ground water is definitely a source of portable water. Now, we, SavePaloAlto'sGround.org was very please in February when we thought Public Works was directed by the City Council to use meters to measure the groundwater, to do Geotechnical Reports and then come back, I believe it was in June. As I have said before, the meters were standardized; one plot was off by 50 million gallons – even though it used two draining hoses. There has been very little accuracy and I think basically, no transparency. Even though I think Public Works has made a good effort to do this. Now, what we're hearing tonight is that the regulation that the City Council asked for in 2016, will be implements in 2017. So, we basically have had a lost year. I don't think we can continue to pump and dump 140 million gallons in 2017. Didn't I get another speaker card? I think I had a couple speaker cards for me? I know Penny [Proctor] gave a card to me, [Irene Cane] gave a card to me.

Chair DuBois: I'm sorry, I did not see that.

Ms. Vrhel: Well, can I have more time?

Chair DuBois: Generally, we have to do five for 10. It's not two or three. Can you wrap it up in like 30 seconds?

Ms. Vrhel: No.

Ms. Mary [Silverster:] Pardon me. Can I pass my time on, I'm Mary [Silverster] and I'm a speaker.

Chair DuBois: Ok.

Ms. Vrhel: Ok, thank you. So, what we would like as a minimum is the installation of a standardized meter, selected by the City. All meters are to be installed and inspected by City Staff before pumping starts. All meters but me accessible to the public at all times and be able to read from the street. Beneficial use or percolation on the site of the majority of the extracted ground water. Transparency and curacy must be written into the regulations and requirements. A phone number must be available to public so problems at the site can be reported and corrected timely. No, grandfathering of projects when the regulations go, no matter where you are in the permit process, those requirements are applied to the project. It's just like if you were building a house and all of a sudden, the fire department required overhead sprinklers, that's what you have to do. Fines must be collected, they cannot be put off. A citizen should not have to come to the

TRANSCRIPT

City Council and ask that the fines be collected. Pumps must be brought up slowly and to their optimal water flow, the two weeks to standardize the pumps cannot be a dump and pump free for all, in addition to the 10 weeks. A citizen's oversight, which I am more than happy to belong on, should be formed to assist Public Works – This is going to take a lot of time, even if they have a consultant and I think that it will make the public feel better. So, Keith and Dan have offered a solid list of recommendations. I don't think their recommendations need to wait until 2018. I think many of them can be implemented in 2017. Thank you.

Chair DuBois: Next speaker is Patrick [Cashmore] followed by Floura Naxebi.

Patrick Cashmore: I gave my time up to Keith.

Chair DuBois: Ok. Floura Naxebi, followed by Esther Nigenda.

Floura Naxebi: Hi, my name is Floura Naxebi. I live on Morina Ave. Three houses in our street as I know has been having basement dewatering. One is a big farm house which took one year, almost to take the water out, not 10 weeks. The first one that had begun, it was a builder that was not a good builder. He was not an honest man. He started that on Morina, then all the people followed him and did such a bad act. We all killing ourselves to save water. They keep telling us, do not water the trees, you're taking the underground water and I don't know if the purpose is to kill the trees around Palo Alto or get rid of the greens because we don't water the trees at all. If you don't water it and the underground water goes away, what can we do? Another thing we want to tell you is that by electricity, they can hold the water while they are making the basement and I talked to a soil engineer, his name is Charles [Hartsucks], he said that we do that. He's a soil engineer. Another thing that I want to mention, is that when – he also said that when they take the underground water, there is going to be a vacuum created under the ground and that vacuum called a sinkhole and the whole house can come down and if this happens because we are dewatering 200 feet, 100 feet away from these houses. If that happened to us, who is going to pay all that damage? Thank you.

Chair DuBois: Esther Nigenda, followed by Joseph Rahn.

Esther Nigenda: Well, I had a map and it was very interesting map too. I'm a neighborhood coordinator – neighborhood preparedness coordinator and one of my main issues is safety. That one? Ok. I'm missing my map. I'm a neighborhood preparedness coordinator and safety is a very big issue for me. The map showed where the depth to groundwater was located. You can put that map on but it doesn't show what I needed to show. My map showed

TRANSCRIPT

where we would have – the FEMA storm – yeah that one. Although it doesn't have the basements there either. That map is good.

Ms. Bobel: (Inaudible).

Ms. Nigenda: Yes and so the very first one that you see on the right-hand side is 10 feet to ground water, the next one is 15 feet. Most of the basements are built from 15 feet towards the Bay. They cannot be built in the floor zone – FEMA's flood zone but they can be built at the border of the flood zone and the map I had also shown sea level rise. The flood zone will increase and in addition, I have provided a scientific study from the Journey of Hydrology to all of the main people at the table which – the conclusion from that study is that, with sea level rise, any underground construction, that is currently at 13 feet or less will, very likely get flooded. So, I just wanted to bring this to the attention of everybody. Especially, Public Works because we the Fire Department Station #3 and #6; those are not impacted by sea level rise or by the normal FEMA flood map but they would be with groundwater emergency. As the sea level rises, the ground water level rises also and so, this is a different impact of sea level rise. That the ground water level will rise and will impact all those buildings that are there. Thank you.

Chair DuBois: Joseph Rahn, followed by Jack Morton.

Joseph Rahn: Hi, my name's Joseph Rahn and I started Purple Pipe Water Services about a year and a half ago. We are the ones that have a contract with the City to come pick up the water at the basement dewatering sites. So, this past two season, we get about 5-10 thousand gallons a day per truck and a big part of the reason why we're able to get so little is because it takes us a half hour to an hour to fill up the truck. I'm pretty confident that with Phil and the Council and the Committees recommendations, that next year we're going to be getting water in less than 10 minutes prefill up and really, I think we can get it in five minutes. The second half of the equation is dumping the water in a meaningful manner and applying it to properties. This past season we've had to truck it – it takes us a half hour to an hour to apply to a park with a two-man crew. That gets kind of pricey and we have to charge the groundwater people about \$14,000 for the one day a week that we take the water. This is next season, with the regulations in place. I think we're going to be able to get, closer to eight truckloads a day per truck per official site. We should be able to get 15-20 thousand gallons per day. I just wanted the Committee to think about this has a more holistic approach and economies of scope. The recycled water pipeline extension is supposed to be completed in 2018. It's supposed to go down Page Mill Road, to Cubberley, to Mitchell Park and hit a lot of the parks here and then over to Gunn High School. Our plan or our kind of master plan as a company is to

TRANSCRIPT

replace all the portable Hetch Hetchy drinking water in City parks. The idea to do that would be to put in basically, a cistern in the 17 park I circled – I'm sorry, I should have brought a better map but these would be parks that would not be hit by the recycled water pipeline probably, anytime soon. You could figure out where the pipelines going to go based upon the most water, intensive users. If the City were to install cisterns at their parks, I'm talking about a 20,000-gallon storage tank underground, that could catch rain water in the rainy season. We could deliver recycled water through that cistern, at a cost between 1.5 pennies per gallon and 3.2 pennies per gallon during the high season. Now, if we have the ground water program pumping that water into the cisterns. Now, we're getting rid of the water in a five-minute dump. We could get a truck off every half an hour and we could do 40,000 gallons per truck per official day. If you had three official days per ground water site, we could reduce the rate because now we don't have a two-man crew, we have a one-man crew. The reduction in rate goes 33 percent down to the groundwater contractors; we could charge them basically, for three days a week. It wouldn't be much more than what they are paying now. With the...

Chair DuBois: Thank you.

Ms. Rahn: Sorry, just one last little point. I'm trying to say that if you keep the groundwater program in place and I'm all for the secant walls, Dan, but I just want to make sure that there are about 5-30 gallons per minute, if you do use secant walls, that we have enough water – if this is the way the City's going to go, that there is enough water to replace all that water in the park cisterns, we could replace 1.2 million gallons per week. Which should be enough to replace 1.3 million gallons that I've calculated that are used at the park system per week based upon speaking with open Public Works and Parks and Rec and everybody. Just try to think of it as a holistic economy scope approach.

Chair DuBois. Alright, thank you. We have Jack Morton, followed by Patti Regew. Sorry.

Jack Morton: Jack Morton, I was humbled by a 3rd grader and I think I'm just going to kind of repeat some of her points but not as clear as she did. The first point she made is groundwater is a community resource. The second point she made given that fact, the community looks to its elected officials to safeguard that resource. Pump millions of gallons into the Bay is simple environmental irresponsible. Wear and tear on the storm drain system is one side effect but it's not the issue. The issue is why would a community allow a few to deplete a community resource, rather than modify permissible building procedures? So, that depleting the water table is no longer an acceptable building procedure. Even if the resident is charged to do so. A

TRANSCRIPT

pumping fee is simply added to the cost of construction. Legislating the responsible procedure is up to you. A 3rd grader, earlier this evening, made that very clear, it's simple. All you have to do it the right thing. Thank you.

Chair DuBois: Alright, Patti, followed by Martin Bernstein.

Patti Regew: Hi, I'm Patti and I have lived in Palo Alto and my family came to California because of the dust bowl. I've lived and stopped and I've been going to the State water – about the delta and I think that we, as citizens – I'm really grateful that so many people have shown up because I've been watching next door on – and so many people are upset about this water that's being given away. I think that as leaders, I guess – I'm looking for you guys as leaders, just to think, who is it really benefiting when you're putting in those basements and letting this water go out? Who really is benefiting? Only the construction people and only – and I'm glad that you guys have been doing a lot of work but it's really benefiting the Staff, when they're having to do – keep on doing all these reports and it's also benefiting the construction people because if they can (Inaudible) – I can do a basement and it's going to cost you this amount, great. I think as leaders, you represent, not only us but the ground and underground and I have two Redwood trees and you guys honor the Redwood trees. I can't do anything to my Redwood trees and now, I'm wondering – underneath is just as important and you need to regulate that and I think until – I am kind of a no basement person because I think until you figure out how we can save our water and how we make it safe for everybody; not only the water but the houses around it. Then no basements until we can figure this thing out.

Chair DuBois: Martin Bernstein, followed by Ellen Robb.

Martin Bernstein: Thank you Chair DuBois and Council Members Kniss and Scharff. I think Kniss is leaving. I'm going to wait. (Inaudible).

Ellen Robb: I'm Ellen Robb, I'm a homeowner on Bryant Street, I'm here, mainly because I'm deeply concerned about possible subsidence of adjoining properties and damage to structures. I'm deeply concerned that I don't think there are adequate remedies for owners of properties who think they may have already been impacted or who may be impacted in the future by dewatering in their vicinity. Accordingly, I think, what you really need to do is has a moratorium on issuing further dewatering permits until there are technologies that are developed and regulations adopted that will absolutely, assure the safety of the neighbors. Thank you.

Chair DuBois: Next speaker is Bob Wenzlau.

TRANSCRIPT

Bob Wenzlau: I'll be quick. I served on your Storm Water Blue Ribbon Committee and then I am running the campaign for the Storm Water Initiative and what I would be asking is that the decisions -- the perspective I have is the decision and the statements you make tonight are what we can use in our campaign because there's been some concern in the election about this. I just want to make sure that our campaign, that our messaging could talk about consideration of the fees that would be charged because one of the concerns has been free use of storm water as we're going out for the assessment. In that regard, I'm just hoping that your actions can give us some talking points for the campaign. Something that I've carried on and I think it's just a detail but I also would like dewatering -- you know our firefighters are great. I just wanted to -- No, no, no, I just think those firefighters are amazing but the only other point is that I would appreciate when we do come up with our planning documents, that we also consider the water quality issues that are out there and a lot of these dewatering projects are approximate to that. The main point Vice Mayor Scharff: I think that's (Inaudible). I think a moratorium (Inaudible) again is the fee assessment that's coming up, keep an eye on that, give us something that we can use in the campaign so, that people can feel that the recommendations -- the Blue-Ribbon Committee where, to a certain degree, honored. Thank you very much.

Chair DuBois: So, Martin, you can go ahead and resume but then after Martin is Nicholas Kapopshilin.

Ms. Bernstein: Thank you Chair DuBois and Council Members Scharff and Kniss. Martin Bernstein, speaking as an individual and not as a member of any Board or Commission. I just have five simple points. One, I certainly applaud the idea of groundwater preservation restoration reuse. Wonderful, perfect goal for the City of Palo Alto and any community. The newspaper, a couple weeks ago, talked about a suggestion of basements should be counted toward floor ratio. I would like to propose that the Committee place no restriction on basements per se and the reason for is far -- for example for a ratio that was designed to reduce preserved bulk, nothing about basements. Three: social benefits of keeping basements permissible. There's not increase in perceived bulk in visual view. It allows for multi-generational housing. The fourth point I want to make is that basement, as you heard before, basements can be built without dewatering. There are many basements that are in construction -- I got four under construction right now, no dewatering because of where it's located. Sheet piling and you've heard the phrase, cut off walls. Put the sheet piling deep enough and that keeps any water from coming into the hole. That's done commercially. Mr. Garber said you can walk over to Stanford and go look at it right now. Then, my

TRANSCRIPT

final comment is the proposal of not make the basements an issue, make water preservation, restoration and reuse the issue. Thank you.

Chair DuBois: Ok, our next speaker, Nicholas – sorry you will have to pronounce your last name. Then, our final speaker will be Peter Drekmeier.

Nicholas Kaposhilin: Kaposhilin. Yeah, thank you. Actually, it's serendipitous that I should go right after the gentleman that just spoke because I want to speak about the same thing which is why all of a sudden basement seem to get dug every single time a new house gets built? I've lived here my whole. I don't remember more than maybe a hand full of basements in Palo Alto when I was a kid. All of a sudden, every single family who my children go to school with, who's just moving into Palo Alto in the last 10 years is digging a basement. Why is that? The reason is very simple. Houses here cost \$2 million. How many people paid \$2 million for their house? That's what I thought. We've all been here for a long time. People who pay \$2 million for their house are being told by realtors that they're going to get a house way bigger than what it looks like today and they believe it and they demand it. We're going beyond letting people build basements; we are actually incentivizing people to build basements. We are guaranteeing with our 2006 zoning technical document, which we voted for, that every single new building in this City, will have a basement because it doesn't go towards your total square footage at all. So, it seems very simple to me, aside from all the great ideas about how we could be cleverer in digging basements, which I think we're all for, for sure. It seems very simple that the easiest thing to do is alter that square footage percentage. Maybe it's not 100 percent but maybe it's something more than 0 because right now, you can build a 2,000-square foot house on a 7,000-square foot plot and you put a 1,800 square foot basement underneath it, giving you a much larger house and there is zero cost to doing it, other than digging the basement. We're actually incentivizing people for the basement. Thank you.

Chair DuBois: Ok and our last speaker is Peter Drekmeier.

Peter Drekmeier: Good evening, Peter Drekmeier, Palo Alto resident and Policy Director for the Tuolumne River Trust. It's interesting, 140 million gallons is equivalent of what Palo Alto uses in 14 days, all of Palo Alto. Its equivalent of what all East Palo Alto uses in 70 days and East Palo Alto has a pretty severe water shortage. They had to put a moratorium on development including affordable housing and a school and they are now looking to drill groundwater wells, just to meet their basic needs. Fortunately – Oh, I said that? I'm just kidding. I think it's really great that Palo Alto is stepping up and looking to help out East Palo Alto. I appreciate the Council voting to move forward on that. I think that water is the precious natural

TRANSCRIPT

resource and it's getting more precious and this is really an issue of climate change, adaptation and water security and what we're going to see in the future is a much more integration of different water, whether it's our portable water simple, a lot of that's from the Tuolumne River near the Hetch Hetchy ground water, rain water, flood water and waste water. What they are doing in Orange County is they're doing an advanced purification of their waste water. Percolating it down into the ground water basin and they use that for everything, drinking, watering. A benefit of that is you don't have to run purple pipe everywhere. You use one source of water and they do a hundred million gallons per day and it's very high-quality water. I think Palo Alto has a lot of potentials to do that and the wonderful thing is the groundwater basin is nature's infrastructure. It's storage and disperses the water and what we could do is have pumps in every park and every large landscape so, we're not using this extremely precious Tuolumne River water but we're using advanced purified water, distributed through the groundwater and if we – we'd be recharging the basin at the same time. The reason – I'll end there. It's been a long time. I do want to thank Keith and Dan for working together, I think that's a beautiful success story and I have great admiration for both of these folks. So, let's listen to them.

Chair DuBois: Alright. Thank you again for coming and speaking tonight. I'll have it turn back to the Committee. Do you guys have questions or comments? Great.

Vice Mayor Scharff: First of all – steal a microphone – best I can. Hang on. Short cord. Can you hear me? Hopefully, you can. Alright, I'll try and talk louder. My voice is a little weak today, anyway. Thank you all for coming.

Council Member Kniss: Sit closer to the mic.

Vice Mayor Scharff: Try and get close. The mic doesn't move so. Alright, I'll try this. Is this better? Easier for me too. Anyway, thank you all for coming. I actually thought – really appreciated all of your comments and I really appreciated the comments of Dan and Keith – sorry, I think Bennett – Keith. Anyways, thank you very much. I wanted to say that I thought that what Dan and Keith were saying is very important. I wanted to get a sense from Staff if they had any reaction from that but I wanted to frame it a little bit first. So, what I heard them say, is that really, we should try and move to non-broad dewatering and do the localized cut-offs. What I sort of heard was that we'd like to have a pilot in 2017 and see if we get some of these basements built that way and how do we incentivize people to do the non-broad dewatering. So, that we'd see how do we get there and that if it does work and people can build basement based on that, then eventually we would move to not allowing anything but broad dewatering except under

TRANSCRIPT

certain circumstances. There could be certain hardship circumstances, for instance, I can see. I guess I wanted to get a sense from Staff, what that looks like?

Mike Sartor, Director of Public Works: Phil, can you pull up your Slide, Number 8. Yes, that's the one, thank you. To answer your question Vice Mayor Scharff or Committee Member Scharff, what Phil has shown on this slide under Item Number 3. Is that when we enhance our Geotechnical Report requirements, which would be much more expensive than it is now because they would have to do pump tests and actually, do a real Geotechnical Study. The alternative would be to do, what basically is the local dewatering option and that's what's outlined here on the slide, Item Number 3; the maximum 30 gallons per minute. The way that you would achieve that would be putting in a cut-off wall and that what we would hope is that, when Dan Garber's clients look at building a basement, they are facing a choice of an expensive Geotechnical Study or a Secant Wall; they might go forward with the secant wall. We, at this point, are not able to require that. Go to your next slide Phil. So, that's where we're proposing in our work, if the Council directs us, to look an ordinance that potentially would require a cutoff wall and reductions or elimination of basement groundwater pumping and that's Item Number five on this slide.

Vice Mayor Scharff: Can you go back to the previous slide for a second. I wanted to ask Dan if the 30 gallons per minute is the right number?

Mr. Sartor: You may want to grab the mic here, Dan.

Vice Mayor Scharff: Sorry, I have the mic, Dan.

Mr. Garber: I'm not sure I can answer that directly but I think that is probably in the range. We suspect that the amount of pumping, that you may not need to use more than – you may not need to pump more quickly than 20. Do I know exactly what that number is, no but it's certainly not the 100+ gallons per minute that are being done today. The other point that I would make is that if the water – we recognized that there is a limitation to being able to create fees around the amount of water that actually leaves the site. For any number of reasons, it's going to take study and it's going to take legal and it's going to take a variety of different things for that to be worked through. There are certainly opportunities to require other fees to be created for doing the broad area dewatering. So, that if there was more, for instance, trucking that needed to happen. At the very least you would be paying more for that and that would help incent the localized dewatering.

TRANSCRIPT

Vice Mayor Scharff: I think that brings up a question for me. I sort of got the sense that -- and I sort of had this sense before that these Geotechnical Studies are a waste of money and a waste of time and that we shouldn't require them. I do think that trucking out the water, seems like a very useful thing because we're then using the water and so, if we require -- I mean, I'm really asking a question, can we require people to truck out a certain amount of water so, that they spend the money so, it makes some cents but the money actually goes to something worthwhile and you guys aren't reviewing useless reports, frankly. What's your reaction to that?

Mr. Sartor: Well, again, to require a certain amount, I'd need to work with Molly on, you know, when we could put together an ordinance to address that but we are proposing in our enhancements for '17, that the groundwater fill stations be improved so that they could fill up a water truck in the 5-10-minute range. So, as the gentleman with Purple Pipe was here tonight and spoke, would have -- be incentivized to bring more trucks. Now, the concern -- there might be some concern about that because you're talking about a lot of trucks potentially, in front of a basement site but certainly, could convey more water.

Chair DuBois: This did come to Policy and Services a year ago, and I think at that time, you guys presented the number of trucks to handle a basement, would be like trucks eight hours a day for weeks and -- you know, so it's not -- talking about capturing a very small amount in trucks.

Vice Mayor Scharff: No, I recognized that that's a small amount in trucks but it's still the more water you actually take off site seems more worthwhile than if the report actually has no value. Obviously, what we have going on, is we have a period where we need to get the regulatory regime in place and you know, it's 2017 in two weeks. So, we're not going to be putting in any new ordinances in really quickly in 2017. A question I have in my mind is how do we move as quickly as possible to be doing non-broad dewatering and we have to make sure that that's viable. What's the best way to have a pilot program? So, that people do, you know, do non-broad dewatering and we get some sense that that works. I mean, if we get four people that build basements with non-broad dewatering and it works. Then I think we can start to feel comfortable that we can move in that direction and I'm just making up the number four but I think, to actually show that it works and it does it. The question is, is anyone planning on doing non-broad dewatering? Is anyone aware of anyone not doing? Dan, you had your hand up. I feel like I'm a...

Mr. Garber: (no mic) (Inaudible).

TRANSCRIPT

Vice Mayor Scharff: Ok. So, that means that we'll have some sense for that in the next – in 2017. Which means in 2018, we can reevaluate what we should do.

James Keene, City Manager: Can I just add something? If I might add something. Could I just do a clarification here, real quick, just for a second? I just want to restate what I've heard happening tonight and again, add my voice to – my voice to every – I add my voice to everyone who has complimented the speakers tonight and obviously, Keith and Dan. Especially, for having some recommendations that – unless I'm misunderstanding it, there's a lot of alignment with the Staff recommendation and what they said. This is what I read the Staff report as saying, is that it is – maybe it's a little indirect here but it's our intention to move to essentially, localized dewatering through an ordinance that could mandate or require whatever it is, a cutoff wall and this – what is it called secant approach. So, that sounds like something that makes everybody happy. The issue here is, the point you made, that 2017 is around the corner. The fact is that people can get into the process of getting their project entitled or permitted and our ability to then impose that regulation after the fact, gets to be difficult and we – the need to coordinate, for sure, a new ordinance. Not just through our own process but make sure we do the right cross-references etc., the California Building Code, all sorts of things that might be required. Means that we're a year off from where I think, I would say, myself, a City Manager would like us to be. So, the real question is what is the best strategy to be able to incent a movement through pilots or anything else, to localize dewatering program rather than this broad area dewatering? The Staff proposal was more focused on well if we have a – that we maintain a requirement on doing these plans. Essentially, you could skip that requirement if you can essentially, do a cutoff wall as I understand it what number three is essentially, recommending. The other question is, if that's really just inadvisable or not that effective – is what I think you were partly looking at and were groping for other options. What are other things that we could do? Whether you want to brainstorm about those or ask us to look at ways to bring back Items. I mean, I don't want to escalate things but I did ask the City Attorney, is there any potential at all that we could impose short-term moratorium on basements, with the potential that there's – this is just a concept, you know we haven't even had a chance really to discuss it in detail and would there be a way to excuse someone from a moratorium on a per house basis, if they would pilot the localized dewatering approach. It might be different than the need for us to actually have to work out all of the ordinance requirements. I don't know if that's the case or not but those are the sort of things that between now and you meet again or however you want us to handle this, we could take a closer look at. The real option really is, what to do between now and 2018. I have no doubt, based on where you

TRANSCRIPT

guys are and to be honest with you, I don't want a year from now, listen to everybody also telling us that we've dumped another 140 million gallons and we're not doing anything. We need to make that change. The question though is how do we get from here to there as quickly as possible and that's the unknown issue for us, right now, to be able to do that. I can tell you one thing, I loved every comment except for the fact, I did want to correct the fact that the Staff gets no benefit from writing reports and bringing them to the City Council so just so we're clear on that.

Vice Mayor Scharff: Thanks, Jim. I did want to correct some things I heard. Just so you all know, on my street, not in my neighborhood, on my street, between 1997 and 2001, six homes built basements. Basements are nothing new so, anyone who said we haven't been building basements in Palo Alto and we're building more, more recently. It's just wrong. There are lots and lots and lots of basements that have been built and they've been built on my block. My house didn't subside, nothing happened like that and every house on my street has a basement pretty much these days. (Crosstalk) It's actually at 14 ½ feet. I know exactly where it is.

Chair DuBois: I'm sorry we already had our public comments and this is not interactive with the audience right now. Thank you. Sir, thank you.

Vice Mayor Scharff: What's important is that there have been a lot of basements that are built. Basements are nothing new in Palo Alto. We've been building them. I don't think they're at any huge increase than they were frankly when we had the dot-com boom back in 2000; there were a lot of basements built. I said there are a lot of basements built in the dot-com boom in 2000. They tend to go with the economic cycle. I think that we need to look at this as an issue that we need to resolve because I think we are in a drought, water is a precious resource and how do we best use that resource. Then I have some questions for Staff about that. My understanding is, that if I wanted to tap into the shallow aquifer and use it for irrigation, I can't do that? I'm not allowed to just go ahead and drill down 14 ½ feet and start pumping the water out and irrigation my yard. I don't believe that's allowed.

Mr. Bobel: Could I try a shot at that? First answer an earlier question that you asked that didn't get answered, Vice Mayor Scharff and that was, you asked about this – call it an incentive, what if we used more of the water and we required more use as an incentive that might drive the – what I'm going to call, advanced construction techniques. We don't use this term local and broad and I'm not really in love with it, to be honest with you. Wish I had a chance to talk to these guys. I think what we're talking about is, should we use an advanced construction technique or should we continue

TRANSCRIPT

down the path? As Jim said, very articulately, that the real question is – I think we can see the handwriting on the wall – the best approach is to require advanced construction techniques at some point in our future. The only real question is how do we get there and there's not a fundamental difference between what these guys are advocating and what was in our Staff report. The incentive that you expressed, the incentive that Jim expressed, it's all the same wave length. The wavelength is, we're probably moving toward an advanced construction technique but we don't have other Cities that have done it. We haven't done it ourselves on residential property. We need to make sure, before we regulate, that this option is real and there aren't some unintended consequences that we can't think of right now. So, how do we set up the incentives system so, that this works? I wanted to remind you that we do require one day a week trucking now. That's in the 2016 program. It would be in the 2017 program. If you like this concept and that costs about \$1,000 a day to contractors. If you like that idea and you want to increase that, I would say increase the number of days and I think somebody suggested that. Why not three days instead of one day? That's something that you could recommend. I'm not in love with the proposal which was 10 percent of the total because we're not sure – first of all, that's still not in the (Inaudible) of our estimates. 10 percent is frankly, not a large number and I'd rather just – the problem with that approach, is it might require to actually meet that. It might require that they're pumping – that they're trucking on into the evening. That they're trucking more days than the Community really wants. That we've got trucks out there all day long. So, I think it's better to just say, an eight-hour day, once a week or some other number days of the week and you can increase that. Every day you add basically, adds \$1,000 - \$1,500. So, instead of wanting it to be a \$1,000 a week, if you want it to be \$5,000 a week, we can do that five days. That's one suggestion, where you can be active. Another area that's really important, that hasn't gotten emphasized – a few people said, that there shouldn't be grandfathering. Let me explain that. So, currently, our requirements -- as we impose new requirements, we say that if you already got your conditions of approval or your building permit, either one or the other. Then you don't have to meet our newest requirements. That has meant, for example, on the Geotechnical Studies of those eight that got done in 2016, only three actually had to endure the additional expense of these Geotechnical Studies. Only three of those eight were actually incentivized to do something different. If we don't – I just wanted to make sure you understood. If we don't change this grandfathering thing, that same thing could occur in 2017 and of course, Staff will be criticized, is why I am bringing it up. Staff will be criticized – why did you tell me they were going to be grandfathered in... (Crosstalk).

Vice Mayor Scharff: Better Staff than the Council.

TRANSCRIPT

Mr. Bobel: I'm sorry, now, could you repeat your other question now that I've taken this...

Mr. Sartor: (Inaudible).

Mr. Bobel: Could they, do it? Yes. They'd have to get a permit from the Santa Clara Valley Water District; they'd have to pay a fee. The thing that's in State law, that was correctly referenced earlier was that, if it's not beneficially reused under the State law – that set up the Santa Clara Valley Water District, then they don't charge – they don't regulate it. The legal question is whether it's beneficially reused. Not the depth, not whether it's used for irrigation or drinking or some other purpose but is it beneficially reused? So, in their wisdom, the Santa Clara Valley Water District officials have decided that it's not a beneficial reuse if you just pump it out as a construction technique and you discharge it to the storm drain. That is an interpretation that they had made. Irrigation, they would say you need – it's a beneficial use and you need to get a permit from them and you need to pay their fee.

Vice Mayor Scharff: Got it. I've spoken a lot. I'm going to pass it on.

Council Member Kniss: Picking up on and thank you again. I know this is of huge concern to the City and we appreciate, especially those of you who have taken a real lead on it and thank you, Dan and Keith, for working together from opposite sides of the fence or whichever way you want to put it. I want to just take a look at basements for a minute because I really don't think this is about basements. This really is about water. It really is about, are we wasting water and how can we conserve it? I live in – not too far from Greg actually and I have a basement and what year would you guess my house was built? 1929. In all the houses on my street have basements because, in that era, that's where they put the furnace. That's how you heated the house. I grew up in New England and every house there has a basement. You need a basement. It's part of the house as far as functioning well during the winter. I don't find basements at all unusual. So, I really think we need to very careful on (Inaudible) the problem. The problem is the waste of water and how do we manage to conserve that water? Peter, are you still here? That Peter has certainly, over and over again emphasized what a waste it is to use Hetch Hetchy water. Some of the best in the world – to water your lawns and flush your toilets. That's really where we are. I don't want use to lose track tonight of the fact that we're really talking about water waste. That's what we're trying to eliminate. To go onto how we should proceed over the next year, I think Greg, you made a

TRANSCRIPT

couple of comments. I would really like to pursue the idea of the – I don't want to forget the word – the cut wall?

Mr. Bobel: Cut off wall.

Council Member Kniss: The cutoff wall. Just the cut-off wall. I don't know how to use that. We're going to call it a cutoff wall which is just what it is. I think pursuing that makes the most sense. I don't know – I thought Dan, as you described what Stanford is doing. Are those all commercial buildings for the most part? So, they may not have the smaller square footage that we have but you could extrapolate from what they're doing. I presume, that this could be done locally and it even sounds as though it actually saves some money if indeed it could work over the long run. I don't know whether you're nodding your head, Phil or just hesitating on that.

Mr. Bobel: It's all site specific as people have said. It is the same scale and that's what we were trying to make sure that got created was a system where there was no disincentive putting a secant wall in. Where the Geotechnical Study that we required, the combination of the Geotechnical Study and this use requirement of one day a week, where the sum of those was of the same scale as putting in the secant wall. So, the more we increase those costs, the more the incentive becomes to put in the cut-off wall, let's call it. We are trying to create that situation, definitely. Like I say, we're all on the same Page on that.

Council Member Kniss: I just thought of this for a minute. My basement is not glamorous at all. If you remember what the old California basements look like. They still have a lot of dirt in them. There's some cement on the floor but it is not the place that anyone would like to live or spend a lot of time. It just was done for practical reasons and as I said before, I don't want basements to get a bad name. I think there are many kinds of basements. They're used for many different things and the man that said before, multi-generation is something we need to look at. It's become so expensive to live here that there are many situations where – especially young adults who are still living at home and it's up to us I think to be thinking of creative ways we can use our housing and our basements. Again, I'll come back to, our issue tonight is saving water, preserving water. I don't think it really is about basements in the end.

Chair DuBois: When I first came to Policy and Services, almost two years ago, now. It was the beginning of 2014 and I do remember Keith and Dan kind of being on opposite ends. I do – really happy to see you guys working together and I think that was very positive, you guys coming forward with some ideas. I agree with Council Member Kniss, I think this is all what the

TRANSCRIPT

problem with trying to solve – we're trying to solve pumping out groundwater and I think we need to make sure that the activities and things we're asking Staff to do are focused on that problem and try not to spend a lot of time on other things. I do think words are important and I'm going to disagree a little bit with you, Phil, I really don't think advanced construction techniques gets to it. I think we really are talking about local impacts to the property and this idea of trying to keep the water on the property is a good kind of framing of the issue. I would say the pumping season doesn't start until April, right? So, we do have a little time to make some changes. Cut off walls seems like a big win. Less water, less overhead and not an excessive cost. I think that was pretty encouraging. I did like some of the comments considering whether we should count maybe a percentage of FAR for basements. Again, I think nearly two years ago, we did hear the pace of basement construction had accelerated and the other thing that changed was, we were in a severe drought and so, you know, we talk about years passed. I think that's something that's changed and that's part probably why we are here today. A couple quick questions. If you could give short answers, it's been a long topic. When you guys talk about a start-up period of two-weeks. Are we really talking about pumping for 12-weeks?

Mr. Bobel: It would add to a total of 12-weeks of some kind of pumping but after listening to the stakeholders, people that actually do this day in, day out. We can – given you want a short answer, I would say we were convinced that there really is a need for a start-up period, where your variant and time tuning the amount of pumping. You're also making sure the water quality; the turbidity is sufficient to be discharged to the storm drain system.

Chair DuBois: I think one thing I'd like to explore when this come back to the Council is especially if we are not ready to have an ordinance. Next year is really, how can we limit the period of pumping? So, we said it was 10-weeks and average was 10.8 so, I guess people are just willing to pay the fines and go over any limit we have. Oh, we're not charging fines? I'd be concerned about adding two more weeks of full pumping if the two weeks got things ready but don't start pumping. I think we should try to look at the total amount of water we pump next year. We didn't really talk at all about any plans around commercial dewatering. Again, two years ago, that was one of the topics. It was put out in the future and we heard from the gentleman from Purple Pipe. I think if we maybe start to require a pumping station that a commercial development, even if it's much less, we could potentially reuse that water. I am concerned a little bit about how we define this idea of pumping a maximum of 30 gallons per minute. As I understand it, that would only be measured in the first two weeks. So, what would

TRANSCRIPT

happen if the flow increased after that period? They would not have to do any studies. Again...

Mr. Bobel: Actually, that's not the way we envisioned it. When you get to that next level of detail, you would see that we would require a reevaluation if they exceeded that amount. That amount becomes a requirement, not just an estimate.

Chair DuBois: Ok, that's good to hear. Again, the problem we are trying to solve is trying to keep as much water on site as possible. Depending on the size of the lot, if they were potentially pumping even more but recharging the groundwater on the property – I don't know how we get the idea of total amount of water leaving the property. I think it's a good cut to start. In terms of other incentives, we could maybe consider this year. You talked a little bit about these CPT tests, the cone tests but it sounded like they were going to be optional and I'm wondering if we should, as an incentive, we should make those required?

Mr. Bobel: We could do that. It's not the most fundamental thing needed because it goes to the assumptions you make about the soil parameters and if you've actually got a pump test, that's sort of the bottom line. That's what actually occurs although, that test would help you in the calculations, reviewing the bottom line as an actual pump test. Where you determine what drawn down did you actually get when you pumped at any given rate?

Chair DuBois: I also think maybe adding measuring – you were talking – I think there was talking about testing at the edge of the property. Maybe even allowing testing on neighboring properties with the permission of the neighbors, next year. I'm actually am intrigued by the City's Manager's idea of a moratorium with an exception for cut wall usages, as a way to really test that out next year. I'd be interested in that coming to Council quickly. I do think we – I think it's been mentioned but I don't think we really – if we up the number of days – first of all, when the trucks come for one day, did they (Inaudible) water?

Mr. Bobel: No, they don't. Even with that, you're not – you're only capturing a small fraction of the amount of water but it's difficult to get more than about eight hours' worth of this in without irritating everybody.

Chair DuBois: Yeah, so I would just say, I don't – I'm not sure we necessarily want to say trucks three or four days. I think we will have different problems. We'll have truck idling, waiting to fill up. We haven't really talked about 2018. I think one thing that we should – I mean, there's some discussion about charging for extraction versus discharge and I think it

TRANSCRIPT

gets to the heart of the matter. Are we treating water as a waste product or as a resource? I don't know if you've looked at it yet, City Attorney but is there a way we could value that water and charge at a rate that was more of a resource than waste?

Molly Stump, City Attorney: Thank you Chair Dubois. We have had some preliminary conversations and done some research and looking at this issue but just to recall to the Committee that the Council had listed this issue in a kind of brainstorming list that we were not directed or even really authorized to spend a lot of time working fully up. We are returning to you to ask whether we should do that in the next period. The fee issue is complex because, in California, we have both Prop. 218 and Prop. 26, both Constitutional Amendments approved by the voters of the State, that placed procedural on substantive limitations on ways that government can impose fees. This particular fee, as Mr. Wenzlau pointed out, we already have a fairly complicated process that's well underway, that is now in campaign mode, to approve a level fees for the storm drains system. The idea would be, we would have a different type of fee for this points source, one off type discharge that's very large that occurs at a particular point in time and then doesn't. We are not aware of any other jurisdiction that has both of those types of fees and we do think there are – is a way that we can work on that and establish a sufficient basis for it. It will require the use of a consultant and looking at our various costs and being able to justify – these are the requirements that flow from Prop. 218 and Prop. 26 – being able to justify the basis – the theoretical basis and also the amount and the allocation of that fee. That work could be done in 2017 and that's why that's really listed as a 2018 Item. It doesn't mean that we wouldn't start working on it. It means we would take the 12, 14, 16 months it would take to do all of this administrative work, to have a sound program to go into effect than for 2018 season.

Chair DuBois: Again, it seems like that's a similar challenge we have without recycled water. If we start to create more purified recycled water, can we charge for that as a resource and if we start to use this pumped water as a resource rather than discharge into the stormwater fee, which is treating it as a waste product. I think that's the thing we need to...

Ms. Stump: The issues are complex. They are very interesting and importantly. Frankly, these laws were not drafted with these principles of sustainability in mind. These were, sort of tax and resident protective of taxed type schemes that were put in place by the voters and so, we don't have clear language in the requirements themselves and we don't have court decisions on these types of innovated programs. We are willing to walk down that road if you direct us to do that and we will do the work but you're

TRANSCRIPT

really looking at the 2018 construction season, to have a good answer from us and a basis to move forward.

Chair DuBois: Ok. I do want to say, I'm a little disappointed this is taking so long. I know we probably have some Staff openings and things that have impacted this. To the comment, I think about looking at 2018 and grandfathering or having projects getting in underneath it. If there's a way – we know this is coming and we can try to avoid projects in 2018 not falling – having them fall under these regulations, I think we should try to do that as well. Those are my comments. Greg.

Vice Mayor Scharff: I guess I wanted to go through the Staff recommendations and understand exactly what it is. I think that would be – that would at least be very helpful for me. The first Staff recommendation is to modify the pilot construction dewatering program per the list below approved by Council to apply the new applications after adoptions. Which – are we looking at the list on the Group One list or are we looking at...

Mr. Bobel: Page 7. (Inaudible) Staff report.

Vice Mayor Scharff: Page 7, ok. That's the first phase, Page 7.

Mr. Bobel: Right. We ended up calling this the first phase meaning 2017 verses 2018. So, Phase Two was 2018 on – starts on Page 8.

Vice Mayor Scharff: Ok. Say that again, on Page 8?

Mr. Bobel: Well, that's where 2018 starts. I think you were asking about 2017.

Vice Mayor Scharff: I'll take them one a time. Just so that I understand.

Mr. Bobel: So, '17 starts on Page 7 of our Staff report.

Vice Mayor Scharff: And it's one through six? Is that...

Mr. Bobel: Correct.

Vice Mayor Scharff: Is that fair?

Mr. Bobel: It's one through six and my apologies, that thing that's renumbered one should be seven. It's actually one through seven ...

Vice Mayor Scharff: Ok.

TRANSCRIPT

Mr. Bobel: ... and I just noticed...

Vice Mayor Scharff: That was confusing for me.

Mr. Bobel: We always do that too.

Vice Mayor Scharff: If I was to move Item Number 1 – I'm not saying I'm doing that but if I was to move Item Number 1, modify the pilot construction dewatering program, what would happen is that we would get Items 1-7

Mr. Bobel: That's right.

Vice Mayor Scharff: Ok. That's what I want to understand. Now, there's been some statements about the Geotechnical Study enhancements. I mean, is this something that is really worthwhile doing or do you feel like we need to do this to do something?

Mr. Bobel: Continuing the exactly what we had in '16 is not our recommendation. It did not prove to be useful. The reason we recommend augmenting it, rather than ditching it is because there is value – there are people you heard from tonight that are really interested in this subsidence question, really interested in some issues that wouldn't get completely answered just by moving to a cut-off wall situation, if there were still a discharge and a draw down. There would still be unanswered questions if we moved purely to a cut-off wall situation without having more Geotechnical work. That's one response. The second response is that we need some driver. We need something that and since Chair Dubois likes this broad verse local, I would say, we need to do something to the broad program that gives an incentive for someone to move to the local program or the cutoff wall program. If we line out the Geotechnical Study, I really don't see what incentive there would be to move to the cut-off wall. Although, you've heard some favorable analysis of this. It's sort – financially, it's kind of an unknown. If it were me, I wouldn't do it unless the alternative were very substantially expensive and of the same scale.

Vice Mayor Scharff: Ok, because that was my concern is what you just raised. I didn't feel we were getting enough out of the Geotechnical Study but I wasn't sure what the driver would be, to do some of the cut off walls, if we didn't have it here. On the other hand, I probably would have been more comfortable if you had said, rather than augment, replace the parts that are useless. I mean, I guess that's

Mr. Bobel: You've been listening to the news on (Inaudible).

TRANSCRIPT

Vice Mayor Scharff: I've just been listening to Keith.

Mr. Bobel: No, I'm kidding.

Vice Mayor Scharff: I mean, I guess on this Geotechnical Study, are we getting useful information? I mean, are you going to have useful information? Is it going to be something people can actually comply with? I mean, it is a little – it does seem a little like – I don't know, at least what I've heard about it, that there's a real problem in terms of people knowing what to do – these Geotechnical Engineers. Knowing how to verify this. Knowing...

Mr. Bobel: People know what a pump test is. It's been done for a long time. It's not rocket science nor is it something new. It's expensive. We didn't require it for 2016, the first time around because people didn't – you know our focus group didn't want to do it and so, we said ok. Let's try in the spirit of experimentation – and you got to remember, nobody else has done this type of thing. We have to admit, we are experimenting, we are piloting. So, in 2016 we said, ok. Let's see how much good it does to just do a paper study and what we found out was those paper studies really weren't verifiable, there was not a – in fact, when we attempted to verify it and when our residents attempted to verify it, they came up with wildly different numbers than those in the calculations. I think we took a step forward. We required something that was not very expensive, that has taught us a heck of a lot and now see the next step. It's really a pump test and like I say, it's not rocket science to do that.

Vice Mayor Scharff: If we required one through seven for 2017, is there an exclusion for people who use the – for all of those items, frankly?

Mr. Bobel: Yes. The other important thing that we've built in and this was again, thanks to working with some of the people you've heard from tonight, was we couch it in a slightly different way and we use different words but the basic idea is that you can do this Geotechnical Study with its replacement features of the pump test and the verification. You can do that but if you do a cut-off wall, you don't have to do that.

Vice Mayor Scharff: That's just for the Geotechnical but how about for all of it? If you do a cut-off wall, you don't have to do any of this.

Mr. Bobel: That's something we need to sort of work on around the edges. We'd still like people to use as much of the water as possible but if the cut-off wall were 100 percent successful obviously, there's no water to deal with.

TRANSCRIPT

So, there's no reason to require them. There's no ability to require them to do things with the water. We didn't 'x' that requirement out because this fill station idea is still a good one if they are producing some water. We have people ready; our own park system to use it. That part of it although, it needs improvement, makes sense.

Vice Mayor Scharff: Ok. Then we move on to the next one which is draft and ordinance (Inaudible) and enhancing the construction dewatering (Inaudible) with a goal – which ordinances is that? That would be – on Page...

Mr. Bobel: You're on Page 8. You've now moved to the 2018 – Oh, I'm sorry... (Crosstalk).

Vice Mayor Scharff: (Inaudible).

Mr. Bobel: ... (Inaudible) Page one.

Vice Mayor Scharff: I moved to codify.

Mr. Bobel: I'm sorry. The ordinance, I think and the City Attorney can correct me if I'm wrong but I think we're still exploring exactly what part of the ordinance we'd put this in if that's your question.

Vice Mayor Scharff: I guess my question is whether or not it's premature to draft the ordinance. I mean, if we're going to continue this pilot and enhance it in 2017, right? We're going to put those enhancements...

Chair DuBois: (Inaudible).

Vice Mayor Scharff: Right but we don't know what the ordinance – if we do – if a bunch – if a couple of basements come through with the cut-off construction technique, the ordinance may look very different. The ordinance may look like, let's do cut off, let's not allow the sides of dewatering except under very limited circumstances. So, it seems we're not going to have the information to be drafting an ordinance in 2017 until we have what we've learned from 2017.

Mr. Bobel: It is your classic chicken or egg type thing but as Chair Dubois pointed out, this has taken far longer than some people would want and if we don't get started on an ordinance and draft it, start the process, begin to vet it. If we wait until the end – that's what we did this year. We said hey, -- and in fact, that was our battle plan all along. Was wait until the end of 2016 construction season to generate the 2017 requirements. Well, the construction season didn't end until October 31st and we scrambled around

TRANSCRIPT

after that and have tried to put this together for you. If we wait now until the end of the 2017 season, there will be no time to get an ordinance in place. If we start, sort of in parallel now, although, you're absolutely right, it may change substantially. It's the only thing we can think of to do to prevent this from taking a very long time. One thing is for certain, if we wait until the end of 2017 to begin ordinance preparation, we will never make 2018.

Vice Mayor Scharff: When are, we going to find out if people are using advanced construction? I mean, we have someone who is representing to us and they're going to do two basements in 2017 with cuts.

Mr. Bobel: Well, they plan to do that.

Vice Mayor Scharff: Let's assume – I mean the question is if they – when would we know that that's something we could write into our ordinance that it works or are you thinking that wouldn't be in the ordinance for 2018 no matter what.

Mr. Bobel: We're thinking it could well be in the ordinance for 2018. I would personally love it to be there but I think we have to have some good examples. We've got to search around, frankly, the Country. There may be other places that have tried it and been successful. We just – because we have not been directed to look into this, we actually don't know what other Communities – we're not aware of other Communities that have done it but we may unearth some good information about it or we may unearth examples where – although it's a commercial site technically, somewhere that it was right next to house and nobody died, you know what I mean? We may find other examples that we can use that are not technically on residential sites.

Vice Mayor Scharff: Ok. So, what you're saying is that you want to move forward on this but in this ordinance, I don't see anything about the alternative construction? I mean, I don't see anything about the cut offs...

Mr. Bobel: (Inaudible) for 2018.

Vice Mayor Scharff: Yeah, for 2018.

Mr. Bobel: Number 5 as I remember – well, maybe it's not on here. It was on the slide. It was Number 5 on the slide.

Vice Mayor Scharff: But on this, I don't see it. I'm looking on Page two and three. Is that the wrong place?

TRANSCRIPT

Mr. Bobel: Yeah, now it's on Page 9. It's 'F' about 1/3 of the way down.

Mr. Keene: Yeah, Page 9.

Mr. Bobel: Page 9 is part of the second phase, which is 2018. It's 'F'.

Vice Mayor Scharff: OK, what is the relationship... (Crosstalk)?

Mr. Bobel: Oh, are you back on...

Vice Mayor Scharff: ...between the stuff on Page two and three you pointed to me?

Ms. Stump: That's all historic.

Vice Mayor Scharff: So, that's all – ok.

Mr. Bobel: Yeah.

Vice Mayor Scharff: Ok, that was historic. You're confusing.

Mr. Bobel: Background. I'm sorry.

Vice Mayor Scharff: Because you pointed to that. (Crosstalk)

Mr. Bobel: So, background – just read past background. You know, we put in the discussion section, is where we put the stuff – the new stuff.

Vice Mayor Scharff: I just got to get this clear. I understand where the number one stuff is. The number two stuff then is on Page 9. Is that correct? No, it's on Page...

Mr. Bobel: It starts on Page 7 because number two is...

Vice Mayor Scharff: No, no, it doesn't Phil. Wait. You have to slow down for a second. You told me that one through six plus where it says number one in big bold, is one through seven is what we're doing in Item Number one...

Mr. Bobel: Yeah, I'm sorry.

Vice Mayor Scharff: ...modified. That's where we are.

Mr. Bobel: You're right.

TRANSCRIPT

Vice Mayor Scharff: Ok, so, leave it at that. That's number one. So, then we move onto number two. What is in number two?

Mr. Bobel: That begins on Page 8, at the bottom. It says second phase. Is that what you're wanting is the details?

Vice Mayor Scharff: Yes. I want to know what I'm voting on.

Mr. Bobel: Yeah, right. Brad's pointing out that the ordinance is going to include everything, right? So, we're going to include the '17 stuff and some new stuff for '18 but they'd -- we'd catch up with everything. Remember, we're calling this the pilot year. Our attorney has told us that we need to eventually get all of this stuff in an ordinance. Not just the new stuff for '18. We need to capture -- and frankly, not just the '17 but the stuff we did in '16. It would have been, we thought a little too confusing to try to summarize everything that would be in the ordinance.

Vice Mayor Scharff: Well, some of the stuff we're not putting in from '16 right because you're redoing...

Mr. Bobel: We're replacing things.

Vice Mayor Scharff: Replacing stuff.

Mr. Bobel: Yeah.

Vice Mayor Scharff: Ok, but you're going to bring that ordinance in, at that point, we can vet it?

Mr. Bobel: Yes.

Vice Mayor Scharff: That's ok. That makes some sense. The broad direction would be to go draft an ordinance, right?

Mr. Bobel: Right. That's number two on Page one.

Council Member Kniss: That's this one (Inaudible).

Vice Mayor Scharff: Yes, that is correct but I was trying to figure out what was in that ordinance because the Staff report is sort of...

Council Member Kniss: (Inaudible) advanced construction techniques. (Inaudible).

TRANSCRIPT

Vice Mayor Scharff: No, they're actually – oh, yeah, they did talk about that but they're also in Number two because it's under 2F. That's what I was getting too.

Council Member Kniss: (Inaudible) also under Number three...

Vice Mayor Scharff: Yes, it is.

Council Member Kniss: On Page one.

Chair DuBois: (Inaudible).

Vice Mayor Scharff: Yes, it is. Ok. Alright and then explore the implementation – and that would be the extra work that you were talking about doing. That the City's Attorney was talking about doing when he said, further pumping or discharge fees. Now, how do these – these are Group 3 Items, right?

Mr. Bobel: Yeah, Number three on Page one is trying to explain the three things that we picked up from Group 3, under background and we're seeking authorization to explore them; from the full Council.

Vice Mayor Scharff: Ok. Alright, so I will try and make a Motion and we can talk about it because we need something to go forward with. I'll move that we do number one and number two and out of number three, we just do incentives for using advanced construction techniques but instead of calling it that, I'm going to call it – come on, I'm looking for you guys to tell me what the right words are? (Inaudible)(Crosstalk).

Mr. Bobel: Can we call it cut off walls?

Vice Mayor Scharff: It's called cut-off walls. That in Number three we explore the implementation and incentives for using cut-off walls.

Chair DuBois: So, you're dropping...

Vice Mayor Scharff: I'm dropping A and I'm dropping – well, I don't mind if we want to evaluate multiple impact sites but we can have a discussion on that. I'm not going to paloose that now. I'm not actually opposed to it but I actually heard something that was outside this meeting from you two guys about multiple impact sites. So, I don't know what we mean by exploring it. I'm happy to explore it.

TRANSCRIPT

MOTION: Vice Mayor Scharff moved, seconded by Chair DuBois to recommend the City Council Direct Staff to:

1. Modify the Pilot Construction Dewatering Program (per the list below) approved by Council (on February 1, 2016), to apply to new applications after adoption (to the extent possible, for the 2017 construction season); and
2. Draft an ordinance codifying and enhancing the Construction Dewatering Program, with a goal of bringing the ordinance to Council in 2017, in order to be in place for projects not having either their Conditions of Approval or Building Permits by July 1, 2017, for the 2018 construction season; and
3. Explore the implementation and incentives for using advanced construction techniques such as cut-off walls.

Vice Mayor Scharff: Ok, so, we've got – so, you're going to second that. That's fine. Let me just speak to it briefly. First of all, I want to thank you guys for working together on this and thank everyone who came and I agree wholeheartedly with Council Member Kniss, who I thought phrased it beautifully. It's about water. It's about not wasting water and I thought that was a really clear phrasing of the issue.

Council Member Kniss: It's not about basements.

Vice Mayor Scharff: It's not about basements. It's about water and it's about making sure that we use our resources wisely and I think we're moving in that direction with this and I feel good about it. Now, let's see, what else did I want to say about that? I hope Staff – well, I hope we will get some of those cut-off wall ones so, we can look at that and then I would hope Staff would stay on top of it if those are being built and it looks like that works just fine, then we could -- because it would be so much easier to have an ordinance that just simply says, use cut off walls, right? Then you had some modifications for people – he talked about the drilling equipment. There might be certain people that are hardships situations, where they can't get the equipment in there because their lots are bizarrely shaped or there are other buildings built too close and so, I wouldn't want to say, you can't have a basement there. I'd want to say, well then you have to go through a bunch of hoops or pay a bunch of other fees or do something. Anyway.

TRANSCRIPT

Mr. Bobel: Could I just say one thing Vice Mayor Scharff about that. You would probably see us exploring a performance standard like that 30 gallons per minute thing to be a companion with requiring the cut-off wall. Normally, we don't require what we call means and methods. We don't require a specific construction technique. We require one or more performance standards. So, we'll be searching for one or more performance standards that essentially dictates the use of a cut-off wall rather than trying to define cut-off walls because that gets messy and...

Vice Mayor Scharff: I'd be good with that. I'd be totally good with that. Whatever is the right way to do it. So, we're not being too prescribed in this because I think we're using the Staff recommendation.

Mr. Bobel: Right.

Vice Mayor Scharff: Alright. Tom.

Chair DuBois: One quick question, how invasive is a Drawn Down Test? I think that's what it's called.

Mr. Bobel: We do it on a case by case basis so, that we – if you're asking whether they'd have to have a well on an adjacent property, it would not have to have a well on an adjacent property if they could get cooperation and it ended up being there, that would be a little better.

Chair DuBois: Yes, so I'm asking about – I guess Page 8 – you say a representative distance to the nearest adjacent structure.

Mr. Bobel: Right. The idea there is that we would hope – you know, you think of it – a cone a depression is essentially a big circle. You'd want to – it's ideal to be using a point that's commence with a distance to an adjacent structure. If we can find a point in the back yard that's in that same distance – backyard of the subject site, that would be better. That's the kind of detail we'd work out on (Crosstalk) (Inaudible).

Chair DuBois: I'm wondering, like a small boring? Where if the neighbor gave permission, you could actually do it at the actual structure?

Mr. Bobel: Yes.

Chair DuBois: Ok. I agree, it's not about basements, it's about – but it's about incentives to conserve water. I think we need to talk about the incentives and whether they're strong enough. I mean, maybe this is implied but I guess the first part of the Motion, I would amend to say that, have

TRANSCRIPT

Staff evaluate and bring options to Council and suggest maybe a couple of additional incentives that were kind of in here at optional ideas. Specifically, -- but I would ask you, before you come to Council, if you have other optional ideas, bring those as well. Additional incentives, not just the mandatory cone test. Possibly, even allowing a longer construction season, if you used a cut-off wall, which would be an incentive if you used cut-off walls.

Mr. Bobel: That's currently in there.

Chair DuBois: Ok. Also, this idea of maybe doing the Drawn Down Test. Make it required and do it at the neighboring structure, you know, with the permission of the property owner. I think there might be other things you could bring. So, I would just – the amendment would be to have Staff evaluate and bring options to Council. Alright. So, is that clear what I'm suggesting? For number one?

AMENDMENT: Chair DuBois moved, seconded by Council Member XX to add to the Motion "Have Staff evaluate and bring options to Council regarding additional incentives such as the mandatory cone test, allowing a longer construction season if you use a cutoff wall and the idea of a required draw down test."

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Vice Mayor Scharff: You'd have to write it out and say it. It's actually not the Staff report – it has all of that stuff except the cone, in there already.

Chair DuBois: Well, the cone's in there but it says they may do it.

Mr. Bobel: It's recommended but not required.

Chair DuBois: Right.

Vice Mayor Scharff: I assume there is a reason Staff (Inaudible).

Mr. Bobel: It didn't seem to be germane – it didn't seem to be to go to the bottom line of trying to – like I say, the bottom line is, what is the pump test show? What is the actual draw down when you start pumping?

Chair DuBois: And where is it in here that the construction season would be longer if you use the cut-off wall in next year?

TRANSCRIPT

Brad Eggleston, Assistant Director of Public Works: It's on Page 8, Item D, very end of paragraph D.

Mr. Bobel: Thanks, Brad.

Chair DuBois: Ok. When you come back to Council, would that be more defined?

Mr. Bobel: This would all be in an ordinance. I don't think – we didn't think it needed any more definition than what you see.

Chair DuBois: Ok, extended indefinitely or...

Mr. Bobel: That would be a case by case decisions that we'd be working with them on.

Chair DuBois: Ok. Greg, the other amendment, I guess I'd have to Number One is again, this idea of exploring incentives would be also to have Staff evaluate the idea of a temporary moratorium with an exception for people who participate in the pilot program. Again, I'm asking them to explore that and just come back with that one when it comes to Council.

AMENDMENT: Chair Dubois moved, seconded by Council Member XX to add to the Motion "Ask Staff to evaluate the idea of a temporary moratorium with the exception for those that participate in the pilot program."

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Vice Mayor Scharff: I think that's (Inaudible). I think a moratorium (Inaudible).

Council Member Kniss: Let me ask you a questions about that, though. We had eight houses last year. Are you talking about them being on any basement or just those that are within...?

Chair DuBois: Just the required pumping.

Council Member Kniss: Only the required pumping?

Chair DuBois: Well, if you don't require pumping, I don't think – there were a bunch of other basements that were built outside of the eight.

Council Member Kniss: Right.

TRANSCRIPT

Mr. Bobel: Almost all this applies if you're not running into groundwater.

Council Member Kniss: I just want us to be really sure that if it hits the press that we're having a moratorium on basements, without somebody understanding exactly what we're talking about. It will create...

Chair DuBois: I think we're interested – so, what I'm getting at... (Crosstalk).

Council Member Kniss: ...it will create a real misunderstanding in the Community.

Chair DuBois: What I'm trying to get to is, I think we're really interested in having people pilot this next year so we'd know and I would just like Staff to evaluate all the options that we've heard tonight when they come back to Council.

Council Member Kniss: I agree but I wouldn't support the idea of a moratorium.

Chair DuBois: Right, but I'm asking you guys to support the idea of exploring that option and bringing that to Council as -- it would be a temporary...

Council Member Kniss: Which option?

Vice Mayor Scharff: For a moratorium.

Chair DuBois: A moratorium... (Crosstalk).

Council Member Kniss: No. (Crosstalk).

Chair DuBois: It's not really a moratorium. You can build a basement if you use the cut wall technique.

Vice Mayor Scharff: I (Inaudible).

Chair DuBois: The other thing, on Number Three. I think all three of those are critical and so, I would add that we turn A and B to that part of the Motion. Again, A is along Molly to get started on all this work that may take two years.

Vice Mayor Scharff: Well, let's take them one at a time. I might be fine with (Inaudible).

TRANSCRIPT

Mr. Bobel: What we know is and it's been suggested to us but we didn't really dream this one up. Let's say you have two sites and we'd have to say how close they had to be to be likely to have synergistic effects but let's say that number was 500 feet. We have two sites that are going to be pumping at the same time, within 500 feet and we'd require that the analysis be done together so that we could predict the groundwater drawn down from the combination of those two pumping at once. We know that this kind of things occurs. It's really only a question of how close together do they have to be so, we'd have to do some work on that. That's why we put it in Group 3 originally. It's not a significant task for us to figure out how to do and direct someone how to do that. You won't hurt my feelings if you leave that one out.

Vice Mayor Scharff: So, given the amount of work (Inaudible) that we leave it out. Then the answers no.

Chair DuBois: Again, I think number – the first part of that A is pretty critical. This is again, assigning some value to this groundwater that's being discharged.

Mr. Bobel: The other thing I would point out is a number of the comments you heard, not so much tonight but when we were more focused on this fee in earlier meetings. It was seen as part of the incentive package that would help drive the cut-off wall.

Vice Mayor Scharff: My concern with the pumping fee right now is, I think we're moving in a direction of getting where we want to go. We don't use the storm drains in the summer. I think to go ahead and do a nexus study and come up with all of this, I think it's a huge amount of work and I don't think it's about valuing the water. What I think it's about is that if we get to this cut-off wall stuff, it's probably completely unnecessary and I'm not sure we need to be imposing a fee to keep the water out of Oregon Express Way. Are we going to pay a fee for City Hall to be continuously pumping under City Hall the whole time? Which is what we do. I guess don't think we need to go there right now. We may eventually need to go there but I don't think we need to go there right now. I wouldn't support it. I think it's a huge amount of work for Staff and I think there are better things they can use their time for.

Chair DuBois: Just a quick response, I think we're mixing construction pumping with other kinds of pumping. I don't think that's something we need to explore. As you've heard, I mean, it's taken almost two years to get to this point. If we just don't do anything and we wait, we're pushing it all

TRANSCRIPT

further out and I think all we're doing it asking Staff to start to explore that work. Without these things that I've asked for, while I certainly support most of these steps, I'm not going to be able to vote for the Motion because I think we are leaving out some very important pieces.

Council Member Kniss: Let me ask – Let me just ask that question. You're talking about the further pumping?

Vice Mayor Scharff: He's talking about fees.

Council Member Kniss: Right and the (Inaudible) under A.

Chair DuBois: (Inaudible).

Council Member Kniss: But, as it relates to basement construction and dewatering? Because this – that's what we're talking about.

Chair DuBois: Yep. Right?

Council Member Kniss: You feel strongly on supporting (Inaudible)? I can't see why it is (Inaudible) relevant but...

Vice Mayor Scharff: (Inaudible).

Council Member Kniss: Ok, well Tom, I will support you on this one but let's see what happens.

Chair DuBois: Ok.

Council Member Kniss: At some point, we do need to move this Item.

Chair DuBois: Yeah, we need to move on in this Item. Should we split vote on each section?

Council Member Kniss: I'm fine putting it all together, are you?

Vice Mayor Scharff: I'm fine with bringing it all together. I just wanted a clarification because what you guys said was not what I understood we were doing. Are we only going to look at a fee? Is that even legal? Only (Inaudible) pumping water out of basements as oppose to pumping water out of other places into the storm drain? I don't believe that's legal.

Council Member Kniss: Right but after we were just talking about pumping it out of basements because that is what this is called.

TRANSCRIPT

Vice Mayor Scharff: I don't believe that's legal.

Ms. Stump: We will have to look at that issue. It very well may be that other types of pumping will also need to be subjected to a fee that would be defensible. We don't know the answer to that tonight. So, that's not...

Council Member Kniss: So, are you saying we're opening Pandora's Box, is that it?

Ms. Stump: There's a lot of work that we'll need to do to explore different – a couple of different options for establishing a fee and it may be that if you ask us to do that, we'll come back and say that, it needs to apply to variety types of pumping. We can't – in other words, I don't recommend that the Committee attempt to prescribe today that only certain types of pumping would be subject to a fee. We need to look (Crosstalk) at that. It may be a legal issue.

Council Member Kniss: (Inaudible) leave this out after Molly's explanation. I think we're going down a bumpy road there.

Chair DuBois: Alright, so should we just go ahead and vote on the Motion which is essentially the Staff's Motion? Is that correct? All in favor?

MOTION RESTATED: Vice Mayor Scharff moved, seconded by Chair DuBois to recommend the City Council direct staff to:

1. Modify the Pilot Construction Dewatering Program (per the list below) approved by Council (on February 1, 2016), to apply to new applications after adoption (to the extent possible, for the 2017 construction season); and
2. Draft an ordinance codifying and enhancing the Construction Dewatering Program, with a goal of bringing the ordinance to Council in 2017, in order to be in place for projects not having either their Conditions of Approval or Building Permits by July 1, 2017, for the 2018 construction season; and
3. Explore the implementation and incentives for using advanced construction techniques such as cut-off walls.

MOTION PASSED: 2-1 DuBois opposed, Berman absent

TRANSCRIPT

Mr. Bobel: You've taken out A, is, that, right?

Vice Mayor Scharff: I've taken out A...

Mr. Bobel: A and B?

Vice Mayor Scharff: Correct.

Chair DuBois: Against.

Mr. Bobel: Of 3. 3 A and B are not part of the Motion, even though they were in the Staff thing. (Crosstalk) .

Mr. Keene: (Inaudible) Passes 2-1.

Mr. Bobel: ...just to be clear.

Chair DuBois: Yep. Alright.

Female: I'm sorry, I haven't been to a meeting before but I think the (Inaudible) is pretty outrageous. You're saying no, even in (Inaudible) of moratoriums. You're saying no ... (Crosstalk).

Chair DuBois: I'm sorry, we just can't ... (Inaudible)... we've gone through the process. I'm going to have to ask you to – thank you. Alright, so that ends this Item. We've been here for two and a half hours. I wonder if we could just take a quick two-minute break and then we'll pick up the next Item.

Mr. Keene: That'd be great. Mr. Chairman, I would also... (Crosstalk).

Vice Mayor Scharff: (Inaudible) I move that we postpone the next Item. It's not critical and I don't think we have all the information anyway. I think there could be more Staff work on it. That's the privacy stuff. Then, we just move to the (Inaudible).

Chair DuBois: Could we discuss it quickly in terms of what is missing so that Staff has an idea?

Mr. Keene: I think we could do that. We do have some speakers. We should let the speakers speak. Mr. Chairman, I just might state just so that the public understands. This is a recommendation from the Committee that ultimately goes to the City Council. So, it will be taken up. It doesn't take the effect of any final action until the City Council as a whole vote on it.

TRANSCRIPT

Chair DuBois: Right. Thank you.

Council Member Kniss: Which will be next year.

Mr. Keene: Yes.

The Committee took a break from 8:37 P.M. to 8:44 P.M.

At this time, the Committee heard Agenda Item 1.

1. Discussion and Recommendations for Data Collection and Privacy Policy Guidelines

James Keene, City Manager: The next Item is a referral from the Council of a colleague's memo from Council Member Berman, Vice Mayor Scharff, Council Member Schmid, Council Member Wolbach. Titled Colleague memo: Developing City policy on acquisition used in safeguards for surveillance and information gathering technologies was referred to the Policy and Services Committee. You will also note, that we have a pretty extensive Packet with the Staff report in it and really a compendium of really, existing policies that the City has in relation. This Staff report has been put together by Amber Cameron, who is a Senior Management Analyst in Fire and EMS Services here in the City and is available here if you want to get into a presentation. We really have a recommendation from the Colleges Memo. We also have some suggestions from the Staff about a different way of sort of slicing and identifying guidelines for surveillance managing data. The Staff report I think had a – the Santa Clara County ordinance and then this morning, we had a meeting with the ACLU and the Electronic Frontier Foundations. I think speakers who will address you tonight – we actually got a copy of the model ordinance by the ACLU and we also received actually, a copy of the – sort of a draft ordinance from the City of Oakland.

Molly Stump, City Attorney: (Inaudible).

Mr. Keene: Peace and Justice Commission represented from the peninsula is also here and is here this evening. Anyway, I think there is a lot for even to assume that the Committee would really be able to look at and what we'd be most interested in is one, you're hearing from our guests and two, my suggestion would be tonight, just given where we are also. Is to hear if you have any overwriting comments after you hear from the public about what your thoughts are about the approach or angle we should take. Then, I would recommend that you direct us to come back to Policy and Services in

TRANSCRIPT

the new year, with a way of us sort of doing some comparison and actually mashing up perhaps, the different suggestions that we have into something that I think will be more focused – provide a stronger focus on the Committees final recommendations to the City Council. So, that's what I would suggest.

Chair DuBois: Thanks, Mr. City Manager. I guess we will go to the public. So, we have four speakers. I think the first speaker – I'm sorry, I can't read the first name, Adam? Adam Schartz. Sorry Adam. Second speaker would be Matt Cagle.

Adam Schwartz: The idea of this ordinance is to make – from the respect of the privacy organizations is to ensure that before the City adopts new technologies that might have the effect of surveilling the population but the matter ought to come to the City Council first and there be an opportunity for the public to be heard. The bill does not take a position on whether any technology should be adopted or not or what the rules should be or not. It's simple it's a process to ensure that everyone is heard. We think that the Colleague's Memo is really a terrific lens to look at the problem. It includes the model, ACLU Bill, and we've got the spec. a version of it that we've just distributed. We'd be delighted to work with any of you in the coming months in order to hone it to what might be best for the City of Palo Alto. The Colleague's Memo also talks about the guidelines of the International Association of Chief of Police, which in turn, talks about the importance of the Community being involved and going to the governing body before adopting new technologies. The Colleague's Memo talks about the Santa Clara Bill, which in turn is modeled upon the ACLU draft that we have submitted to you. It talks about a two-statute enacted by the general assembly at the – under the leadership of Senator Hill, which in turn require a process of bringing two sensitive technologies, the license plate readers, and the cell site simulators to governing bodies before their adopted. I understand there are concerns about smart Cities from the perspective of the privacy organization, there is nothing incompatible between smart cities and this ordinance. I'm a resident of Palo Alto. You know, my kids are biking around the streets and I want to live in a fact-based – evidence-based City that's making decisions about where to put up lights and where to have kids bicycling. If smart Cities is gathering data, you know, sign me up. We think that much of these techs will have nothing to do with this Bill and the ones that do – this bill is not a rejection of any technology, it's simply saying, if a technology will have the effect of potentially surveilling the public, bring it to the City Council first and if the pros out way the cons, if it's going to make us smarter without undermining our privacy, so be it. Let's have that open process. There's also I gather, a concern about Staff time. I want to emphasize that the kinds of reports we anticipate are very short. The model

TRANSCRIPT

report for use in the Santa Clara record is just a few pages long. So, we're not talking about reams of information. Again, all the privacy groups here, we are eager to work with the City to move this forward. We think the Colleague's Memo really points things in the right direction and we thank you for letting us speak about this.

Chair DuBois: Thank you. Matt Cagle.

Matt Cagle: Hi everyone. My name's Matt Cagle. I'm a policy attorney with the ACLU of Northern California. I'm based out of San Francisco. I work primarily on issues of technologies so, that includes surveillance, privacy and free speech. I wanted to add to Adam's points and really underline why we think this ordinance and why Community members think this sort of ordinance is important right now. Then just first, I'll step back and explain in a bit more detail the three sort of principles that motivate this ordinance so, folks can understand how it works and of course you should feel free – anyone should feel free to reach out to me or my colleague Tessa Darkangelu who has worked with, I think some of the folks here, if there's any questions. The ordinance does three simple things. Like Adam said, it's not a preference for a technology or preference against technology, it just says that when these tools – surveillance technologies are on the table here in Palo Alto, that there be more information provided to the public about how those tools are going to work. What sort of information those tools collect so, the debate can be more informed when you all are considering whether to approve a tool, be it for the Police or for the Park and Recreation Department? The ordinance also requires that before that decision is made, there be a draft use policy about – that sets forth, you know, what the tools are going to collect? How they're going to work? So, that the public knows well, what is this camera going to be used to video tape or what is this license plate reader going to be used – what laws are going to be enforced using that tool. Then, there's also going to be some oversight after the fact, of periodic audit of how these tools actually working and will allow the City to make sure that tools purchased with grant dollars or funded with tax dollars at a later date, in a way that is smart for the Budget. It will also make sure that folks know that these tools are working to further the purpose. All these steps of the process are again, process, transparency, not categorical yeas or nays on whether technology is appropriate for the City. I'm happy to answer more questions if folks have them going forward. So, why this is important right now. I think and I've heard this from a ACLU members and also constituents and Community Members across Northern California, that right now we're in a political climate that is uncertain and Communities are really unsure not only with the federal government's informant priorities -- are going to be with things like immigration but they're looking to their Cities and they're local government to take real meaningful steps to show

TRANSCRIPT

them, that not only are they aware of what's happening at the federal level and willing to stand up for civil rights and civil liberties but also willing to be transparent about how police are operating and how law enforcement is operating in Communities. This ordinance does exactly that. It informs Community members about what sort of tools law enforcement is interested in using and make sure that everyone is on the same Page. Then, that way, it encourages trust amongst Community members and law enforcement. Just as background, Palo Alto would be the first City – if this began to move forward in the City Council. Would be the first City in California to really move forward with this sort of ordinance and you could really be a model for other Cities inside of California and also outside of California. Santa Clara County did go forward with this sort of measure but as folks know, Counties are very different machines than the Cities and so, this would be a really great landmark sort of gesture. Again, my name is Matt Cagle. I'm happy to be responsive if folks have questions going forward and I think this really furthers the sort of smart City goals as well. I forgot to say that these tools – the smart City tools often won't implicate the sort of privacy concerns as Adam was saying and it really furthers the principles of making sure the public is just informed about what's happening. Thanks for having me and we appreciate you holding this hearing tonight.

Chair DuBois: Thank you. Paul George.

Paul George: Hi, Paul George, Peninsula Peace and Justice Center. I want to thank you for continuing to pursue this. I especially want to thank Staff for the generous time they gave us this morning to talk about it. I'm not an attorney like my previous colleagues but I can tell you is as a Community organizer, this issue of Government intrusion into individual privacy is really a high concern of local residence. We've organized numerous Community forums on the issue and attendance at all of them exceeded the capacity of the various venues that we had rented. As people, have learned more about the issue, they've learned that it's go beyond what Edward [Snowden] told us about the NSA. They've learned that the use of surveillance technology by local jurisdictions is just as alarming and maybe even more so because it is local so, it is an issue that the public is aware of and would like to see something done about. At a recent forum that we had on the issue of local surveillance that Adam from Electronic Frontier Foundation spoke at, you could hear the audience auditable gasping when they – when Adam described some of the capacities of some of these surveillance systems. As always, sunshine is a wonderful cure for many ills and that's what this ordinance is about. It will create a public process that will provide the opportunity for your constituency to fully understand what's proposed to be acquired and how it will be used and afford them the chance to have their say about it before anything – any technology is acquired. As the previous

TRANSCRIPT

speakers say, that's the only thing that this ordinance really does. I'd urge you to come up with a strong ordinance that puts the concerns of the public front and center. In the coming months, the Peace and Justice Center and other organizations will be going to other local Cities to urge them to adopt a transparency ordinance. Much as we did with the raise the minimum wage campaign, city to city. I hope I can go to those other City Councils, hand them a copy of the Palo Alto ordinance and say here's a find model to follow. Thank you for your time.

Chair DuBois: Thank you and our last speaker is Jerry Schwarz.

Jerry Schwarz: Good evening, my name is Jerry Schwarz. I am a resident of Palo Alto and a volunteer with the ACLU. I have spoken on this extensively when Santa Clara was considering its ordinance and the most important aspect of it, from the point of view of what it means is – what it means is that the public, through the City Council is in charge. The ordinance requires absolutely nothing. It requires that the City Council adopt various procedures that will result in policies, reports and the like. Palo Alto, of course, has somewhat different surveillance because it's – it has its own utilities and I've heard concern about well, what about – do we have to start making reports that say how many meter readers when out and that kind of thing? The answer is no. You're – the Council is in charge of the reports. The typical report is probably going to be a yearly report that we're suggesting. It's typically going to be two or three pages saying this technology was used five times. If it's being used by the police, the evidence collected from it was used five times at trial, 20 times in an investigation that resulted in an arrest and that kind of broad level things but exactly what has to be in that report is entirely under the control of the Council at the time it decides to acquire the equipment and at the time – and continuously because it can – the use policies can be changed and the report requirements can be changed. One aspect that's really important that nobody else has mentioned yet is the intention to define surveillance equipment in a general enough way so that the new thing that came out this morning is covered. I usually say it's 5 o'clock, there were two new pieces of surveillance equipment that came that's available today that wasn't available yesterday. Thank you for your consideration.

Chair DuBois: Great. Thank you. I think we heard from the City Manager that based on the further discussion, there may be some additional work to be done on this. I mean, do we have any comments or questions?

Council Member Kniss: No but I appreciate people coming and talking to us in particular and sharing that concern. I do think we need to look at it further.

TRANSCRIPT

Chair DuBois: I just had a couple quick things. Clarify this idea that we would be the first City. I thought Oakland had an ordinance?

Mr. Keene: (Crosstalk) it's a draft ordinance.

Chair DuBois: A couple things...

Mr. Keene: You know, typically Oakland's even slower than we are at things so just keep that in mind.

Chair DuBois: Couple things I didn't see in the policies and I guess it's the question of, do we have policies or an ordinance but the things about social media monitoring? I mean, I may have missed it but I didn't see it in ours. Drones and whistleblower protections.

Amber Cameron, Senior Management Analyst: Sure so, I can answer that. We do have a social media use policy but we do not have any policies around tracking or anything like that. We don't have any technologies currently in a place where we do that.

Chair DuBois: So, the police don't... (Crosstalk).

Ms. Cameron: Same with the drones...

Chair DuBois: ... go onto Craigslist or social media?

Ms. Cameron: ...we don't have any drones currently in place so we don't have a policy around it.

Molly Stump, City Attorney: I don't think she's speaking (Inaudible) police investigating practices, though.

Chair DuBois: Ok. So, I think that would be the concern. Maybe police monitoring social media, how is that used? I guess, are we basically – I'll make a Motion that we direct this back to Staff and to consider a potential ordinance versus guidelines and bring it back to Policy and Services.

MOTION: Chair DuBois moved, seconded by Council Member Kniss to recommend Staff return to the Policy and Services Committee with a potential Ordinance that would establish department policies and practices in order to reinforce the protection of individual privacy.

TRANSCRIPT

Mr. Keene: The one overwriting – cross-cutting question I just would ask the Committee is again, we shared some principles that came from New York City's ordinance. We've got, you know, four or five others but the concept that's being talked here about there actually being an ordinance, that does position the City Council to have this kind of key oversight role. I mean, as far as awareness, updating and receiving reporting. Do I understand correctly that the Council – the Committee in general support of us bringing back something with that intention? So, it's a question more so of, what are the components? How do we express it? You know, we may borrow from some of the different ordinances as we look at them and we'll be more informed to be able to tell you, as it relates to this recommendation or that recommendation, from one of the other, then we would be tonight. You know why that's -- why we included that? Why didn't we include it? Why we thought that was the best approach and understanding that you may say well, we really actually like you to put something back in, in that regard.

Chair DuBois: I mean, I'm actually open...

Council Member Kniss: (Inaudible) Does that cover it?

Vice Mayor Scharff: (Inaudible) No, no, I think it does. I think it does. I think it's clear rules so that Staff sort of knows where they are in terms of say, surveillance cameras for instance. You know, what are we going to do with that? Say with a bunch of different things – you know, what are the clear rules and obviously, we don't want to inhibit smart Cities but I think you caught it just fine.

Mr. Keene: I mean one of the differences is, I would say from the where we are now, is we have practices and policies that require -- in different cases – I mean approval. There are standards but again, -- and more often than not, there are practices to inform or share with the City Council exactly what's happening. You've been through that experience before when we were putting in pedestrian counters. If you remember at one point, I think it was over on Churchill we had some cameras where you got some complaints from citizens that said hey, you could actually see into my front sidewalk here with these cameras. What is being talked about here from these folks and some of the other ordinances is an actual ordinance that would require the City Council to essentially approve the deployment of any new technology and roughly know how we'd use it and that there would be some mechanism for publicly reporting after the ordinance was adopted in some way on how it's being used. That's the concept and that's what we would be working on.

TRANSCRIPT

Council Member Kniss: I did want to comment on one word that I was not familiar with. Anonymized. Is it a created word or ...

Chair DuBois: No, it's a common...

Council Member Kniss: It's a real word?

Chair DuBois: Yeah.

Ms. Cameron: It's a real word and it does – it particularly refers to one we're – if we are providing any kind of data, that we take away any ability for you to pinpoint an individual based on the data set.

Council Member Kniss: I learned a new word.

Mr. Keene: I would just (Crosstalk) offer an alternative, is it could be a new work cooked up by a bunch of guys sitting down in an emergency operations center too much, in the dark. We understand what the meaning of it is. I'll check and see whether the Oxford Dictionary has accepted it yet as a word.

Vice Mayor Scharff: I do have one question actually. Did you say we don't use license plate readers in Palo Alto?

Ms. Cameron: We do not currently.

Vice Mayor Scharff: So, we do not?

Ms. Cameron: Yes. So, we have received one from a grant a while ago but it has not yet been deployed.

Vice Mayor Scharff: Before it's deployed, I mean that would be something I would be really interested in. Before it's deployed, I really think it's important that we get rid of any information that's (Inaudible) – I don't think it would be appropriate for anybody – Public Records Acts or anybody to have any since that (Inaudible) – where people are? Who they are meeting with? What they're doing?

Mr. Keene: I agree with you. I think this is an example of, you know, the potential for missing some items, you know, that I think partly the ordinance is also designed to inject more formality into our purchasing of or acquisition of technology because I will tell you, I wasn't aware initially, when we had it – when we received this in a grant. I didn't know if it came as a bonus gift from some other grant to us but clearly, when I heard about it, I said well, you know we don't have a policy for using license plate

TRANSCRIPT

readers. We can't be using this equipment. Again, this would invert all of that sort of thing so that we have a sort of gatekeeper, override from the Council.

Chair DuBois: Overall, I think we are in sync. I mean, I did see the entire PCI spec. in the Staff report. I mean, I don't think we need to go into that level of detail with Council whether standards, on things like commerce but if this surveillance technology is part of the ordinance, I think makes sense.

Ms. Cameron: The intention was just to offer the guidelines as another potential option that other jurisdictions have done as a way to handle this issue.

Chair DuBois: So, I made that Motion. Did you second it? Are we in favor then? (Crosstalk) .

Everybody: Aye.

Chair DuBois: Ok, great. Thank you.

Council Member Kniss: (Inaudible).

Chair DuBois: We're not going to anatomize the vote.

MOTION PASSED: 3-0 Berman absent

3. Discussion and Recommendations for the 2017 City Council Priority Setting Process and Retreat Planning

Chair DuBois: Alright, so we are on to Item Number 3 which is ... (Crosstalk).

James Keene, City Manager: If you could anatomize me, though, I would greatly appreciate it.

Chair DuBois: Thank you guys for coming. Alright, so we are on to Item Number 3 which is a discussion about the Council retreat priority setting.

Mr. Keene: Yes, (Inaudible) you all get the at places?

Chair DuBois: Yeah.

Vice Mayor Scharff: (Inaudible).

TRANSCRIPT

Mr. Keene: Excuse me – Thank you, Amber. Thanks. There are really two components to this. The first is that...

Council Member Kniss: This is you're at places?

Mr. Keene: This is at the places. This is the return to the Committee under your existing policy to bring the survey from the next year City Council of their priorities as they have identified them and everyone on the Council has provided those. That is on Page one of one, the list. Then secondly, the next Page was just Staff really kind of quick effort to try to group them. Not by Council Member but by the topic area and so, you can see the array. Most it's pretty straight forward. The only exception really, is under the built environment housing, park and livable mobility, we have nine with an asterisk. So, as you look through this, you will see that not all nine Council Members identified that but we did have a couple of Council Members who separately identified – say housing and separately identified mobility. So, in that sense, we counted those things twice. You know, this isn't –this doesn't need to be conclusive, this is just trying to show you an array of Items that Council had. Then little italics language that we had was – with a question mark afterward was, you know, the Council look at – subsuming some of these Items under some of the broader categories like infrastructure or the built environment possibly. Those are things I think are typically you do when you're at the retreat itself and I would just give you my quick impression here, is that, I think we've – the Council has and the Committee tonight, you can discharge your responsibility under the existing policy to basically, sort of pre-collected and in one sense, even pre-organized or sorted through this chart, where the Council is. So, when you get to the retreat – again, the whole idea is you can kind of hit the ground running a little bit. That's my take on it.

Chair DuBois: I think you told me, we usually don't get everybody but we got all nine so that's good.

Mr. Keene: We did. Yes

Council Member Kniss: Liz you had seven priorities.

Council Member Kniss: (Inaudible).

Mr. Keene: Liz didn't follow the guidelines but that's ok.

Council Member Kniss: (Inaudible) (Crosstalk).

TRANSCRIPT

Chair DuBois: So, I could come up with more priorities.

Council Member Kniss: (Inaudible).

Chair DuBois: I don't know what you guys think. I think typically we probably sent both of these sheets...

Mr. Keene: Yes.

Chair DuBois: ... to the retreat and I think would make a lot of sense. People are going to call out their ideas anyways.

Vice Mayor Scharff: Yep. I think it's great. Just send it the way it is.

Council Member Kniss: There's a great deal of redundancy.

Vice Mayor Scharff: There is.

Mr. Keene: Brought you by your department of redundancy department.

Chair DuBois: I think Attachment B is good as is but when we get there, I think they're some pretty obvious groupings that we'll probably resolve pretty quickly. Good.

Mr. Keene: Ok, then the second Item was just a little bit of follow-up from your conversation about the retreat or retreats. Looking to the clerk's Staff, my understanding again, is right now we have two dates – at least with a hold on them, January 28th and February 4th. We had one Council Member who said that they can't make January 28th. We have one Council Member who says they can't make February 4th. My view would be that a retreat focus on priorities setting could tolerate the absences of a Council Member or so. More appropriately than the absence of a Council Member at a retreat that is designed to deal with the integration of the Council assimilation, governance discussions, rules and that sort of thing. That's just my, City Manager take. Then lastly, I have research and I got one suggestion also from Council Member Kniss and I've done some...

Council Member Kniss: Just one second, (Inaudible) neither of those days (Inaudible) I'll be there, you would like to change the date?

Mr. Keene: Well, we did get – I did hear that the 28th could be available to Council Members that said that they could not make it, said they could make it if need be. That's one date. Now, the challenge here is...

TRANSCRIPT

Council Member Kniss: That's a Saturday?

Mr. Keene: Yeah, booking a facilitator and including also an interview. We've collected about – I've collected about four or five potential facilitators. I haven't been able to speak with Marilyn Manning but I certainly looked at her work and her references and everything. It looks really promising to me.

Council Member Kniss: She's very good but she is also not here on January 28th.

Mr. Keene: Ok. So... (Crosstalk).

Council Member Kniss: So, I guess if (Inaudible).

Mr. Keene: ... what I don't have but I will have by – the idea would be on January 9th when we come back to the Council. Is what are the availability of folks who are – you know, who are on the list and then we'll know whether or not that works. Then, the suggestion would be, you know, does the Mayor appoint a subset of the Council to sit and just help us preview and interview the folks you want? Then lastly, I would just say, if we don't have facilitators available, I would think that you would – you should invert the order and proceed with a retreat on the priorities earlier and then we find a date say, later in February or whatever it is to bring that facilitator on. There's just the function of being able to get the support ...

Council Member Kniss: (Inaudible).

Mr. Keene: Well, it is.

Council Member Kniss: (Inaudible) doesn't seem like short but (Inaudible).

Mr. Keene: A couple that I've spoken to – I mean, were really about – really busy, I have a lot of work, you know what I mean? So, trying to get clarity about being able to be available.

Council Member Kniss: Especially, in January.

Chair DuBois: How many are on your list?

Mr. Keene: We have a group of two people who actually, I think would be most effective if they were both here. I mean, just given what they bring but – so, we'll have to see that. Another group of two people who (Inaudible) I've talked to the principal who said he really sort of said he doesn't do that

TRANSCRIPT

much anymore. So, I think that that's out. We've got your recommendation which would be a single person and another group of one or two folks in that group. So, it's probably three or four options. A variety of – well, I'm assuming that the content will be the same. I really – I basically think that the style and the chemistry is probably the deciding factor and that's – as I told one of the folks, I said I didn't really think that that's a position that Staff should be recommending on its own to the Council because a lot of it's your sense of the chemistry, you know, for the Council. Even though people may have some different approaches. We will be working on this between now and January 9th, trying to nail this down with more detail.

Chair DuBois: Should we check some additional dates in later February? Maybe get those in people's calendars?

Mr. Keene: I think that would be good.

Vice Mayor Scharff: I think that would be a good idea too.

Molly Stump, City Attorney: We can do that, no problem.

Vice Mayor Scharff: Yeah, because (Inaudible) Council Members would be good for (Inaudible).

Mr. Keene: I think so. I think so.

Council Member Kniss: You're going to keep the 28th right?

Mr. Keene: Yeah, the 28th we could have everybody. So, we could do the priorities retreat on the 28th.

Council Member Kniss: You want to get to it...

Vice Mayor Scharff: Quickly.

Council Member Kniss: You're already a month into it.

Mr. Keene: Right.

Council Member Kniss: The reason for the retreat is to not only to identify all the needs but we always have some other (Inaudible)...

Mr. Keene: Sure. Sure. Right, right.

TRANSCRIPT

Council Member Kniss: We always have the conversations about when we're going to start any meetings (Inaudible) talk less. I could be wrong but do any of those sound familiar?

Mr. Keene: Well, could we talk about that a little more?

Chair DuBois: Are you still speaking? I think with that we're pretty much meeting adjourned.

Vice Mayor Scharff: Meeting adjourned.

Chair DuBois: Thank you.

NO ACTION TAKEN

Future Meetings and Agendas

None.

ADJOURNMENT: Meeting was adjourned at 9:18 P.M.